MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*) : The following articles were specially prepared by the department and exhibited at Wembley :

1. Starch from the fruits of Cycas circinalis (Kananga).
2. Do. Ipomaea batatas (sweet potato).
3. Do. Diescorea alata (Kachil).
4. Do. Diescorea Sp. (Nanakizhangu).
5. Do. Amorphophallus companulatus (Chenai).
6. Pineapple preserved in syrup.
7. Jack fruit preserved in syrup.
8. Ginger preserved in syrup.
9. Banana figs.
10. Cashewnut preserved in sugar solution.
11. Light cured prawns.
12. Refined oils of eleven different kinds.
13. Fibre prepared from the aerial roots of Pandanus Sp. (Screw-pine).
14. Fibre prepared from the stem of Sida Rhombifolia (Kurum-thotti).
15. Fibres prepared from the roots, stems or leaves of a number of other plants.

Committee on Agricultural Department.

83. **MR. TARIATU KUNJITOMMAN** (*Muvattupuzha* cum *Todupuzha*): Will the Government be pleased to appoint a committee, with some of the chief agriculturists of the country also as members thereof, to investigate and formulate proposals for making the Agricultural Department more useful to the people?

MR. N. NILAKANTA PILLAI (*Secretary to Government on other duty*): A committee of laymen may not be able to make suggestions as regards the scientific experiments upon which the activities of the Agricultural Department largely turn and experts alone can examine the variations in soil, climate and other factors. In the circumstances, Government do not see the necessity for the appointment of a committee. Government would, however, be glad to receive suggestions, particularly as to propaganda and popularisation, from the member and from others, for careful consideration.

DEMANDS FOR GRANTS—(*Contd.*)

DEMAND IX—ADMINISTRATION OF JUSTICE.

PRESIDENT: We will now proceed with the voting on demands.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, I move for a grant not exceeding Rs. 7·02 lakhs under Demand IX—Administration of Justice.

LIBRARY ARCHIVES Kerala Legislative Assembly

Motion 104.

The following motion was not moved.

MR. G. RAMAN MENON:

104. To reduce the allotment of Rs. 29,455 under establishment by Rs. 900.

Motion 105.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): I beg to move the following motion:

105. To reduce the allotment of Rs. 42,475 for establishment by Rs. 1,200.

This motion is introduced simply to bring to the notice of Government and the members of this House that the post of the Indexer and Publisher may be abolished. I do not mean by this that the Indexer and Publisher has not sufficient work or that that post is unnecessary—I mean that the work is unnecessary. There is one other man in the High Court who is not having sufficient work. I mean the Manager. To ask for the abolition of the post of the Manager is beyond the province of this Council. What I say is therefore the work of indexing and publishing may also be done by the Manager. As far as my knowledge goes, the Manager has not got any work beyond the signing of summonses. He may also be asked to do the work of indexing and publishing and thus we may amputate one at least of the superfluous limbs from public service and seek thereby to save something at least of the Rs. 77 lakhs spent every year. I hope my vakil friends practising in the High Court will be able to give more details about the work of the Manager. With these words, I beg to move my motion.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, I have to oppose this motion. Practically, an identical question was raised in this House on a previous occasion and the debate in this House on that occasion was conveyed to the High Court and they have considered the question once again in the light of the debate of this House. They have come to the conclusion that the Manager has got sufficient work and that, besides the Manager, a Law Reporter and Publisher is absolutely necessary. If necessary, I shall place before this House the work, as stated by the High Court, allotted to each of these places. Before doing that, I will remind the House that there is one principle which this House will do well to bear in mind in dealing with the conclusions arrived at by the High Court. The High Court is concerned with the administration of justice and Government will be very reluctant to interfere with the domestic arrangements made by the High Court. I daresay this House will also agree in that view. I do not mean to imply that this House has no power to interfere with an administrative arrangement made by the High Court; but seeing that the High Court and the Judicial Department are charged with a technical work, namely the administration of justice, and that they must have ample powers for doing their duty, they must be given more freedom than the heads of other departments, such as

LIBRARY ARCHIVES Kerala Legislative Assembly

the Excise Department or the Forest Department. In these departments, it may be possible for Government to veto the recommendations of the Head of the Department and say that Government are not accepting the recommendations and are doing something on their own initiative. I submit to the House that such a thing should be very rarely, if at all, done in the case of the High Court. They have come to the conclusion now after mature deliberation that there is ample work for the post of a Law Reporter and Publisher and there is also sufficient work for the place of the Manager. I may remind the House that the staff of the High Court was re-organised only about three years ago. It was re-organised in April 1922 and the re-organisation came into effect about six months after. That is not very long before. It will be a difficult matter for this House to tell the High Court that they should now revise it unless very cogent and weighty reasons are brought forward.

I shall now place before the House the duties allocated to these places. The criticism is that there is not sufficient work for the Manager. I shall enumerate the items of work of the Manager and of the Indexer and Law Reporter as stated by the High Court.

Manager's duties. On an average, there will be 15 cases daily for issuing notice and the number of notices (both originals and copies together) come to about 100. All these have to be signed by the Manager.

Copies of the decrees to be sent to the lower courts have to be signed by him. The annual disposal is about 1,200 cases (appeals and special appeals together).

He has occasionally to take stock of the books in the Library which contains more than 4,300 volumes.

He has to see whether all returns, monthly, quarterly and annual, are received in time, to see that reminders are sent to the courts which do not send such returns in time, and to see that records and *tondi* articles in cases disposed of are returned to the lower courts without delay.

He has also to revise all drafts of communications sent from the decree, the old records and the Statistical Sections, and sign fair copies thereof. He has to supervise the working of the following Sections.

1. The old Records Section;
2. Copying Section;
3. Typing Section;
4. Comparing Section;
5. Decree Section;
6. Stationery Section; and
7. Statistical Section.

He has to attest affidavits daily. Besides this work connected with the cases filed in the High Court, he has to examine the various reports and statements received from the lower courts. They are—

(*a*) Inspection reports submitted by the District Magistrates. There will be about 120 reports a year, and these have to be gone through carefully, and the irregularities disclosed have to be noted and submitted to the Judges through the Registrar.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Paramesvaran Pillai.]

(*b*) Reviews have to be drafted on the quarterly and half-yearly returns of the judicial work done by the Lower Courts—Magisterial and Civil.

(*c*) Reviews have to be drafted on the returns of progress made in cases pending in the lower courts.

(*d*) Reviews have also to be drafted regarding the work done by the ministerial staff and the arrears pending with them in the lower courts.

These are the duties of the Manager.

The duties allocated to the Indexer and Law Reporter are these:—

(1) He has to read through all the decisions of the High Court, prepare notes of the decisions on questions of law and mixed questions of fact and law, index them in note books, and make them available for ready reference.

(2) He has to prepare head-notes of cases in the T. L. R., one volume consisting of four parts, each part containing about 80 pages and has also to index them; and they have to be published annually. He has to correct proofs of pages of the T. L. R.

It will be seen from this—

MR. P. K. NARAYANA PILLAI (*Ambalaphuzha*): May I know whether it would not be advisable to leave the law reporting to a practising lawyer instead of to a clerk of the High Court?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): That question has not been pointedly raised in the motion, but I may say that that I see from the file that the question was considered at the time when the staff was re-organised, after the Salaries Committee's report. The High Court then came to the conclusion that it is not feasible or advisable or expedient to leave that matter to a practising lawyer. However, if that also has to be considered, that may again be brought to the notice of the High Court, and they may be asked to express their views in the matter. But, so far as the officers now in question are concerned, I submit for the consideration of the House that the statement made by the High Court in regard to the work of each of these officers is very clear; and that shows that the two officers are absolutely necessary for carrying on the work of the High Court office. I may remind the House that these officers are not new creations. They are almost half a century old, that is to say, they have been in existence from the time the High Court came to be established. I may also remind the House that, since then, the work of the High Court has increased vastly. I may, without fear of being contradicted, say that the work has increased by not less than 50 per cent. Seeing that these officers are there and that they are necessary, the provision in the Budget in respect of them has to be passed by this House.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): From the elaborate explanation offered by the Law Member, I understand that the work of the Manager practically consists in the signing of papers and also in

LIBRARY ARCHIVES Kerala Legislative Assembly

supervision work. This supervision work does not come in every day. It comes in only, as he himself says, occasionally. It is on account of this that I wished to introduce this motion. I just wanted to bring to the notice of the House whether the question of abolishing the post may be considered. I am sorry that no other member was forthcoming to give his views on the point. Probably, my vakil friends are shy to bring forward their own views on this subject. I shall therefore withdraw this motion :—

PRESIDENT: May I take it that the House permits the withdrawal of the motion ?

The motion was, by leave, withdrawn.

Motion 106.

MR. K. K. THOMAS (*Kottayam*): Sir, I beg to move the following motion:—

106. To reduce the allotment of Rs. 54,332 for High Court by Rs. 100.

Sir, in moving for this reduction, I wish to draw the attention of this House to the possibility of the reduction of the two Temporary Judges of the High Court, and to the means of checking the increasing volume of litigation in our civil courts and the evils consequent on the undesirable appetite for litigation observable in the country. The *Administration Report* for 1099 shows that on an average one suit was instituted for every 56 persons in 1099 as against 55 persons in 1098. If you take the defendants also into consideration, assuming that on an average there are at least three defendants in a suit, the average number of persons involved in a litigation will come to somewhere about 15 and that means that for every 50 persons there is a suit. The small reduction in 1099 is attributed not to any improvement in the mentality of our people but to the unprecedented nature of the floods of the year. Again, the average value of a suit in the Munsiff's Court comes to Rs. 162 and the average value of an appeal in the District Court is Rs. 229·75, while that of the second appeals in the High Court works up only to Rs. 239·89. The average duration of contested suits runs to the extent of 457 days. Bearing in mind that contested suits include those cases which have been determined by agreement of parties, by oath, and such like after written statement, at any stage of the trial, the average duration of a really contested suit will be about two years.

I have given these figures to show the generally trivial nature of the main portion of our litigation and to draw the attention of the House to the drain on the purse of our poor middle class litigants. It is also known to every one here that the total cost to the litigant in a suit of the value of Rs. 100 or Rs. 0, when it is fought for three or four years in several courts, runs very often to much above the value of the suit itself. I know instances where such suits have cost about Rs. 500. The village *Karyastan* (കാര്യസ്ഥൻ) who is the local legal advisor and the so-called protector of the poor litigants demands his toll first. When the litigant has once entered the premises of a court-house, the wary and

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. K. Thomas.]

enterprising vakil *gumasta* who is on his watch, pounces upon him with the rapacity of a hawk, and the court *gumasta* through whose mill the case has to pass squeezes him for his prey. He has also to satisfy the vakil who is to look after his case, to pay the expenses of the witnesses, and that in a costly town, and his quandom friends who accompany him with the ostensible object of helping him in his litigation. After passing through this process in three courts and sometimes four, the litigant is impoverished, his children starved and his family property heavily encumbered.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Are not other people proportionately enriched?

MR. K. K. THOMAS (*Kottayam*) : Yes, but we mainly look not to the enrichment of a few but of the large majority.

Then comes the usurious money-lender who threatens him with a suit, and the man is sold up and thrown on the world helpless. He utilises the experience gained and transforms himself into a professional witness or goes to the estates to work as a cooly, leaving his unlucky wife and children to shift for themselves in the race of life.

Such, Sir, is the condition of the poor litigant. "Justice delayed is justice denied" and in this tardy "course of justice none of us shall see salvation". I do not say that our judicial officers are essentially slow. They have to administer justice according to certain fixed canons. The checks and balances provided by the Civil Procedure Code and tenaciously insisted on by acute vakils make the progress necessarily slow. Most of our judicial officers are men of judicial experience who have developed a high sense of duty, eventhough there may be a few exceptions. I say the fault is in the system and I urge that it is the duty of a paternal Government to wean our peasant litigant out of this pernicious and ruinous craze for litigation.

I suggest, for the consideration of this House, whether it will not be profitable to endow our District Judges and Second Judges with small cause jurisdiction up to Rs. 350 and raise the jurisdiction of our Munsiffs to Rs. 2,500 or Rs. 3,000. It is seen from the *Administration Report* that the large proportion of original litigation in the Munsiff's Court is confined to suits between Rs. 100 and Rs. 500, the figures being 18,407 in 1099 and 18,961 in 1098. The figures for appellate litigation also tell the same tale. In 1099, we had 1,801, and in 1098 there were 2,069 appeals, the value of which ranged between Rs. 100 and Rs. 500. So, when the large proportion of second appeals is reduced by giving small cause jurisdiction to District and Second Judges, I think we can dispense with the two temporary Judges in the High Court and a number of Munsiffs' Courts; one or two Sub-Judges may be added on to the cadre; we will have a speedier system of justice; and this will in a way, reduce the drain on the purse of our peasant litigants. When in British India the Sub-Judges have small cause jurisdiction up to

LIBRARY ARCHIVES Kerala Legislative Assembly

Rs. 500, I think we can safely trust our Judges with small cause jurisdiction at least up to Rs. 350. I know that this position may be attacked by the charge that the sort of justice derivable from a protracted and fair trial is denied to the large body of our litigants. Then, where is this sort of justice to end? Now, the Munsiffs exercise small cause jurisdiction up to Rs. 100, and there does not seem to be any complaint on that score. Even if an appeal is allowed to the Privy Council, some of our litigants will sell all they have and fight the suit there. The fault is in the mentality of the litigant. So, I place this suggestion for the consideration of the House.

A word about our temporary Judges. These temporary courts have been tried for several years now, and it does not show any chance of being abolished. Unless we resort to drastic methods, we will have to continue them and to enhance their number in course of time, having regard to the limitations of human capacity and human nature for this sort of work. Then, why not make them permanent? The only result of continuing these Judges as temporary is to rob these conscientious officers of a portion of the legitimate pension due to them as the wages of their long and laborious work. So, I request that, if we are not going to reduce litigation by any drastic change, the temporary Judges should be made permanent. If we do not want this, let us allow litigation to increase and let us have the benefit of increased revenue by bleeding our poorer classes by establishing more and more courts, or let us once for all boldly face the problem and try to give speedy justice.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): From the motion of Mr. Thomas, I see that he recognises the necessity of retaining the additional Bench in the High Court and of having more subordinate courts for the disposal of law suits under the present conditions. So far as that is concerned, I think I should agree with him. The question of making the Temporary Bench in the High Court permanent, I may tell the House, is engaging the consideration of the Government, and the Government may be able to come to some conclusion in the matter soon.

But, in regard to Mr. Thomas's suggestion to reduce litigation by raising the small cause jurisdiction of the Judges, and the ordinary jurisdiction of Munsiffs, I am not sure whether the other members will agree with him. It is a matter which is essentially for the public to say whether they will be satisfied with a summary trial in regard to a suit the value of which is Rs. 350. If people are, as a body, in favour of this reform, I think that is a matter which may be seriously considered by Government; and the law on the subject may be amended accordingly. To me, it seems that there will be vehement protests from the public if the small cause jurisdiction is raised and summary trial is provided for suits the value of which is Rs. 350. It may be that people are right or it may be that they are wrong as Mr. Thomas says, but the question is whether the public will accept it or not. If the public are agreeable to such a proposal, I think that may be seriously considered by Government; and if the public opinion is unmistakably expressed,

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayalam Paramesvaran Pillai.]

the matter may be taken seriously in hand, and legislation resorted to for that purpose. I shall be very glad to hear what the other members have to say in regard to this matter.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, Mr. Thomas has raised a general point and I think I may be justified in saying a few words. I have had sufficient experience of the world, of the bar, and of the people of Travancore, and I believe Mr. Thomas is not within the range of practical politics when he suggested some of the remedies that he has proposed. There is, no doubt, that Travancore is a very litigious country like Malabar, and I know, as a matter of fact, that the people are not satisfied unless they take every possible matter to the highest court in the land, whether by means of revision or even after the disposal of the revision, by some other means if possible. That litigious tendency seems to be ingrained in the people. It is not possible to get rid of that very easily as Mr. Thomas seems to think. It was only last week, I believe, that I argued a second appeal, which I very rarely argue. The amount involved was only Rs. 150. I believe that was the second time that that case came up before the High Court. The respondent on the other side was represented by a retired Judge of the High Court, Mr. K. G. Sesha Aiyar.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): What was the suit for? Was it a money suit?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Yes. Each of us was paid somewhere about the amount involved. However much I advised him to settle the matter, seeing that he was going to pay me the amount involved, the party will not do it and insisted upon preferring the appeal. He would fight it out until the very end, to the finish whether he succeeds or not. Well, that is the tendency of most of the people here.

MR. K. K. THOMAS (*Kottayam*): What was the result of such tendency in regard to that man? What were the means of the men who engaged you both?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): He had to sell what little he had. (*Laughter*).

Neither the one nor the other was a man to engage us. We demanded very high fees, just as Mr. Van Ross wants to raise the duty in the case of arrack and toddy so that people may not have recourse to it. But somehow or other people insist upon doing it. That is the sort of people you have got. We people are also to some extent responsible for it. If, Sir, you refer to the representations at the Assembly brought to the notice of Government, you will find that most of the representations—

MR. T. J. MATTHEW (*Changanachery cum Peermade*): Whom does he mean by saying "we"? The members of the Council?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I mean people generally, and the members of the Council are gentlemen who represent the people. We are always agitating for a Magistrate's Court here or a Munsiff's Court there. Repeated demands have been made that there should be a Munsiff's Court for every taluk, so that facilities for litigation increase. The result is that it does not cost one much to go to the Court. The moment there is a quarrel between two parties, they get into the Magistrate's Court or a Munsiff's Court. So, I say the representatives of the people are also responsible.

So far as temporary Judges are concerned, I do not think there will be any difference of opinion as to the nature of the work that they do or as to the time taken up by them for hearing cases or the number of hours they hear cases. But that work could not be reduced until the volume of litigation is reduced. My friend Mr. Thomas proposes to raise the small cause jurisdiction as also the pecuniary jurisdiction of the courts. I am afraid neither the one nor the other will be accepted by this House or by the people. The Civil Procedure Code was recently amended and I had very much to do with that. My friends Mr. P. K. Narayana Pillai and Mr. G. Parameswaran Pillai and others will bear testimony to the fact that we spent a good deal of time and trouble for months together for its revision, and it will be found that, whenever it was attempted to reduce the chance of appeal or second appeal, by making the decision of the lower court final, it was stoutly resisted with the result that the Sections with reference to these provisions were left as they were, so that it is impossible to raise the small cause jurisdiction or to say that no second appeal shall lie or to raise the pecuniary jurisdiction. These matters are entirely out of the question.

MR. K. K. THOMAS (*Kottayam*): Does he admit that the increase of litigation that is going on at present is injurious to the country?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): That I do admit, but what I say is that it cannot be disposed of so soon. Education must increase. People must know better, and unless you try to decrease the mania for litigation, it may not be possible to do away with it; and even in spite of it, none will agree to raise the jurisdiction of Munsiffs or to reduce the chance of going to the higher tribunal.

MR. K. K. THOMAS (*Kottayam*): May I know how it is done in British India?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): In British India second appeals are not allowed on questions of fact. The finding of the District Judges is supposed to be final. I do not know whether there is any safety there. Because we know as a matter of fact that many of the findings of the Munsiffs are restored in second appeal. That is why the members of the Select Committee on the Civil Procedure Code Amendment Bill stoutly opposed it.

As for other matters, the Civil Justice Committee has just submitted its report and it is being considered, and I am sure that much

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

that is suggested by them will not be accepted by the Council. We can safely wait and see whether any changes are introduced in the direction proposed by the committee.

As for the temporary Judges in the High Court, seeing that there is no chance of litigation decreasing because the number of cases and the volume of litigation are increasing, I agree with Mr. Thomas in the suggestion that they may be confirmed.

MR. T. J. MATTHEN (*Changanachery* cum *Peermade*): Does he think that the suggestions made by Mr. Thomas will be conducive to the reduction of litigation?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May be. But I think the idea of reducing the litigation is on the ground that people are satisfied with the justice administered. If so, the people will not be satisfied with the decision of Munsiffs in suits the value of which comes to Rs. 250. Because most of the litigants deal with the very small amounts, say, Rs. 150 or Rs. 200. Therefore he may not be willing to risk all that amount by entrusting the Munsiffs with small cause jurisdiction. After all it may be a matter of expediency.

MR. C. P. THOMAS (*Nominated*): Does the member think that the dissatisfaction of the people is reasonable or not?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I am not at present prepared to suggest that the small cause jurisdiction should be raised. My own idea is that it should be left as it is. It is not safe, to my mind, to raise the jurisdiction.

MR. M. SIVATANU PILLAI (*Tovala*): If I remember correct, I understood Mr. K. K. Thomas to suggest the desirability of doing away with the two temporary Judges of the High Court. I doubt whether it is practicable. Ever since the institution of the Official Receiver's post,—

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Is the member aware that Mr. Thomas wound up by saying that the additional Judges must be made permanent?

MR. M. SIVATANU PILLAI (*Tovala*): If that be so, it is all right.

Ever since the institution of the Official Receiver's post, that office has been sought for by many people. In connection with the last vacancy in the Nagercoil District, there were numerous applicants for the said post. And it was reported that it was rather difficult for their Honours in the High Court to decide the matter one way or the other, because, as I understand, there was practically no principle upon which these posts are conferred upon the applicants. In this connection, I may suggest that, in view of the heavy responsibility attached to the Official Receiver's post, it is highly desirable and necessary that the person selected should be asked to give security so that the parties concerned may be assured with respect to their rights.

LIBRARY ARCHIVES Kerala Legislative Assembly

PRESIDENT: How is all this relevant?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I know whether we have now anything to do with the Official Receivers? We are dealing with a motion for Rs. 100 in regard to High Court?

MR. M. SIVATANU PILLAI (*Tovala*): Inasmuch as the power of appointing Official Receivers is vested in the High Court, I just wanted to draw the attention of the Council and the Government to this fact also.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, as the Law Member has invited the opinion of members on this side of the House on some vital questions raised by Mr. Thomas, I venture to offer a few remarks. I thought Mr. Thomas was going to take exception to the continuance of the Third Bench in the High Court. But ultimately he said he was for confirming the Third Bench, if there is no possibility of bringing in any reform elsewhere in the litigious world. His main point of attack was the existence of a volume of litigation in the State. With respect to that, as compared with other people in the neighbouring provinces of India, we seem to be more or less litigious. But it is nothing strange. For, we see in some of the most civilised countries, for example in America, litigation is vastly resorted to. That probably is the irresistible outburst of an irrepressible consciousness of keen differences of opinion which seems not to keep back people, even at the risk of considerable costs being decreed in favour of the opposite side from rushing to courts. It has been pointed out by the learned Deputy President that, even when a question of Rs. 150 is involved in litigation people are prepared to fight out the matter right up to the High Courts and to spend nearly three or four times the amount in connection with the litigation. That certainly looks an unwise procedure on the part of these people; but it has been now questioned by many eminent scientists whether, after all, men are wiser than animals, and indications are not wanting, to raise at least a doubt in that direction. For example, we see that even a daily labourer working right from 6 A. M. to 6 P. M. earning something by very hard labour spends the whole amount betaking himself to a toddy shop. It is certainly questionable wisdom. But, all the same, there is this aspect of the matter, whether wise or unwise, that we have got litigation.

This amount of litigation implies in my view of the matter two things, either a spirit of cantankerousness generally on the part of the people or a disposition to question the ability of the officers who decide the cases. The second aspect of the question presents itself very clearly to any man. If there is any possibility to continue the fight by way of appeal and second appeal and ultimately even by a review, the litigant would not rest contented till he runs the whole gamut of the procedure up to the High Court. In the field of the judicial officers appointed for the various tribunals, there is also the question which arises in the matter of appointments in the judicial service. Elsewhere the practising bar comes in for the lion's share of the appointments. But in Travancore, unfortunately, that is not a very steady principle. We see

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

clerks in the High Court or the District Court being preferred though they are not able to make anything at the bar. When a clerk afterwards develops himself into a graduate-in-law, uneasiness is entertained whether he is not entitled to something higher. Generally, the superior officers are a very impressionable sort of people and they do not want to see a clerk continuing as such in spite of his own diffidence to make any mark at the bar, and probably by continuous attention paid to him somehow or other, they work themselves into the belief that the clerk would make a good judicial officer. That way he enters at the lowest rung and the question arises whether time would not have its own effect upon the man. In course of time, it is assumed by continuously listening to the pathetic complaints and appeals, that he after all is entitled to something higher. That way a man who fails to enter the bar is kicked up and so he goes higher and higher. That is the way generally how official preference in the judicial Department goes. The Bar Association has been agitating in Travancore for at least 50 per cent. of the judicial officers' posts being reserved for practising members of the bar. There is also this thing to be observed. Some people who in spite of their diffidence resort occasionally to the bar and find that they cannot make any headway at the bar, manage by moving the sympathetic chords of the authorities, to get themselves employed by accepting the post of a Munsiff or something of that sort. But the beginning is subsequently forgotten. They are then held to be good not only for the Munsiff's post but for the District Judge's post also. I am here winding up this part of the argument by saying that the question of recruitment comes in for a good deal of scrutiny.

As to the suggestion of the small cause jurisdiction being raised and all that, when the litigious nature of the people is such that even the decisions of the highest judicial officers do not satisfy them, few people may be found to accept the solution offered by my friend. The eagerness is to criticise even the syllables of the Judge's pronouncement even when he is prepared to give his reasons for it. Who can then be persuaded to accept a judgment where the reasons therefor are left to be imagined?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, I wish to say a few words on this motion. I agree with my friend Mr. Narayana Pillai that the recruitment from the bar at present is not sufficient. The members of the bar are admittedly men practising in law and therefore, they would be the best persons to preside in courts of law. My friend pointed out how the persons who entered the ministerial department in the establishment of the courts are made judicial officers themselves. I also join with him in saying that this practice should not be encouraged.

As regards the suggestions made by my friend Mr. Thomas with a view to reduce the volume of litigation, I think they are worth consideration. My friend the Deputy President said that, if the suggestions were accepted, there was a likelihood of the volume of litigation being reduced. The objection raised to the suggestions was that the people

LIBRARY ARCHIVES Kerala Legislative Assembly

are litigious and that therefore, they would like to have as much free play in the matter as it would be possible for them to get. I think that is a mentality that must not be allowed to go too far. Whether the people like litigation or not, as it is admittedly a pernicious practice, it should be stopped whether the people are willing or unwilling. Therefore my submission is that the suggestions made by Mr. Thomas are worth the consideration of Government.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Sir, in supporting the motion of Mr. K. K. Thomas, I have to point out to the Government certain other matters. Of course, I do not want to speak on the question of recruitment to the judicial service from the bar. Of course, I cannot hope to get any. But the matter which I should like to speak about has reference to a circular issued from the High Court as to the minimum number of cases to be disposed of by Munsiffs in a month. The circular says, Sir, that each Munsiff has to dispose of forty contested cases a month. My experience in the Munsiffs Court tells me, Sir, that it is not at all possible for any Munsiff to dispose of forty really contested cases. I have never been able to come across any Munsiff who has been able to do that.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, I fear that the member is not in order in referring to this circular while speaking on a motion of the kind made by Mr. K. K. Thomas.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): The motion is with regard to the High Court and I am speaking of a circular issued from the High Court and in that way it is relevant. (Mr. A. K. Pillai: *Hear, hear.*) I have never come across any Munsiff who has been able to dispose of forty really contested cases in any court. The present practice of these Munsiffs to get at the minimum number is this. Till the 10th or 15th of a particular month, they will be trying to dispose of summarily contested suits. Seeing that they would not be able to dispose of the remaining number of contested suits, after the 15th or 20th, they begin to reject all applications for adjournment of the case and bring those cases under the category of contested cases and in that way they get at the minimum number of cases to be disposed of as prescribed by the High Court. That really works hardships on the litigant population. Those parties who are aggrieved by the rejection of their petitions have to prefer appeals to the appellate court and get a remand. I know instances of the appellate courts allowing remand. These cases are brought back to the Munsiffs again and they have to take them up for consideration. In that way the litigant public are put to very much trouble on account of the losses that occur to them. I, therefore, pray that the Law Member will kindly move the High Court to consider the nature of this circular and issue favourable orders.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Sir, I do not think that Mr. Thomas suggested any remedies to minimise the increasing litigation in the country. As far as I have been able to follow

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Changanachery K. Paramesvaran Pillai.]

him, all that he said was that, if the District Court could be invested with a certain amount of small cause jurisdiction, then the work of the Munsiffs, District Judges and the High Court would be reduced. His suggestion seems to me to invest the District Court with small cause jurisdiction up to about Rs. 250 or Rs. 300, by which he says that the work of the Munsiffs would be considerably reduced and the number of Munsiffs might be reduced. He also thinks that by this method the work of the High Court in respect of second appeals could also be reduced and then the Third Bench would probably become unnecessary. By increasing the small cause jurisdiction he thinks that one or two Sub-Judges alone need be had in order to cope with the work. According to him, the scheme that he proposes is for the purpose of reducing the expenditure in the Judicial Department by reducing the number of High Court Judges and having one or two Sub-Judges while also reducing the number of Munsiffs. It appears to me, Sir, that, if it is a practicable scheme, it is worth looking into. For, if that, is practicable and if it will be acceptable to the public in general, it is worth the consideration of Government to see whether in that way the Third Bench could be disposed of and the number of Munsiffs also could be reduced. As Mr. Subba Aiyar said, if the number of Munsiffs could be reduced, probably it will reduce litigation also to some extent, as the multiplication of Magistrates' Courts and Munsiffs' Courts seems to encourage litigation to a very large extent.

As regards the increase in litigation or the tendency to litigate, I think the people are just as much to blame as Government themselves, because I find from the *Administration Report* for 1099 that, in the matter of litigation, Government are not in any way behind the public. We find from that report that, out of the 335 cases in District Courts to which Government was a party, the number of disposals was 117. Out of these, 101 cases were decided on the merits. Of these, 49 cases were in favour of Government and 52 against. So that in 1099, out of 117 cases disposed of, in which Government was a party either as defendant or plaintiff, 52 suits were decided against Government. The Government have got a host of law officers, Sirkar Vakils and Additional Sirkar Vakils, and yet they carry on litigation in this manner. I think that the Government is setting a bad example indeed to the public. All that I now submit is that the suggestion now made is worth looking into. If it is practicable, it will certainly reduce the cost of the civil administration in the country.

MR. C. P. THOMAS (*Nominated*): May I know from the member whether it is reasonable to increase the small-cause jurisdiction of the Munsiffs?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): From my experience I do not think it advisable to increase the small cause jurisdiction of the Munsiffs. As to whether the District Courts may be given small cause jurisdiction is a matter for consideration because the Judges

LIBRARY ARCHIVES Kerala Legislative Assembly

14060

are all mostly experienced men able to look after the work. Therefore, it is worth the consideration of Government whether they may not be invested with small cause jurisdiction. But, certainly I will oppose any motion to increase the small cause jurisdiction of the Munsiffs' Courts.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, having listened to the views of several vakil friends, the House will, I trust, not be unwilling to listen to the views of a representative of the lay public, the victims of the litigious temperament. I have been feeling very acutely about the delays of law and for the past several years both in the Popular Assembly, and in the Legislative Council as well as in the Press, I have been pressing most strenuously for some remedy for this state of things which is admitted by all to be very undesirable. I have no definite opinion as to whether the particular remedies suggested by Mr. Thomas will be acceptable or will even prove to be the best under the circumstances. In these matters, I think, I would bow to the opinions of the more experienced vakil friends. I am sure the Government or the House would not brush aside unceremoniously the suggestions of Mr. Thomas. These suggestions should be taken into serious account; and if they are found to be at least some palliatives, though not complete remedies, I think something like these or some modifications of the suggestions of Mr. Thomas should be adopted.

The chief reason for the delay and confusion in civil courts, I think, is due to the incapacity or to the dilatory habits of the presiding officers. (Mr. P. K. Narayana Pillai: *Hear, hear*). That is the view I have expressed more than once in this House and which has been applauded by this House, and therefore, I think that is the verdict of those who have had experience of the work in civil courts. I have found again and again that, when a really capable and intelligent and conscientious officer presides over a court—

[*At this stage the Agent to the Governor-General and the Assistant to the Agent to the Governor-General came in and were seated on the dais.*]

Sir, I have found again and again that, when a conscientious, hard-working and intelligent officer presides over a court where there have been interminable delays, the volume of work turned out increases, the arrears diminish and there is order where there was previously chaos. Therefore, in spite of deficiencies in procedure and defects in law, I am of opinion that the chief cause of the existing state of things is that the presiding officers are either not up to the mark or that they have been allowed by want of effective supervision to develop very dilatory habits. It is not in human nature to keep ourselves always up to the highest mark. One naturally relaxes and has a tendency to take things easy. Judicial officers cannot be expected to be free from this common frailty. When it is found that gradually they are able to take things quite easy, step by step they relax tension until at last they refrain from doing anything which they can avoid doing. That is the chief reason, if not the sole reason, for all this accumulation of arrears and all the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. C. Mammen Mappillai.]

confusion that we find. We have got the example of typists. Some persons are able to type one hundred words or two hundred words per minute. Others of equal physical capacity, and it may be intelligence, are not able even to turn out half or one-third of that quantity of work. The reason is that, when a person is, either voluntarily or by effective supervision, compelled to work at a high pitch, he develops qualities of speed and efficiency. In our Judicial Department, sometimes the officers themselves are constitutionally incapable, and I am sorry to say that the system of supervision exercised by the High Court or by Government is not calculated to keep our officers at a high pitch of efficiency or to develop this working capacity in them. If these defects are removed, I am sure a great improvement will be effected. There is no use blaming the poor clerks. Everybody admits that the clerks are corrupt and very dilatory. If the presiding officers are men of the right stamp, there will be no room for the clerks to practise corruption. Therefore, the chief attention of the High Court and of the Government should be concentrated upon the recruitment of a very much superior order of men in the Judicial Department as also upon the elaboration of a system that will always keep them at a high pitch of efficiency.

MR. C. P. THOMAS (*Nominated*) : From the speeches of the previous members, both official and non-official, it is clear that the evil of litigation has grown considerably and it is high time that something is done reasonably to reduce the evil. Now, the suggestions made by Mr. Thomas have been considered and one objection that was raised was that it will not be popular. There would be public outcry against such a measure because people have generally been anxious to go to as many appeal courts as possible. Now, the question is whether Government ought to bow to conciliate such a feeling on the part of the people. So long as Government are satisfied that only efficient officers are appointed in the Judicial Department, there is no reason why they should in any way satisfy the people's undesirable craving for going through a number of courts for litigation.

With regard to giving more small cause jurisdiction to the Munsiffs' Courts, it was expressed by some members that it is not desirable that it should be so done, considering the present condition of efficiency, moral and intellectual, of the Munsiffs. I am not in a position to give a decided opinion about it. The best thing for the Government to do is to see that improvement is made in this direction in such a way that more small cause jurisdiction can be given to the Munsiffs' Courts. The other suggestion was about giving small cause jurisdiction to District Courts. No objection was raised to it by anybody.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I raised an objection to that.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. C. P. THOMAS (*Nominated*): If at least this propsal can be considered favourably by the authorities, I think it will go some way to reduce the volume of litigation in the country.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether he has been a party to a small cause suit?

MR. C. P. THOMAS (*Nominated*): No. So, the question of reducing litigation is one which should seriously and as early as possible receive the attention of Government.

MR. K. K. THOMAS (*Kottayam*): Sir, my main object in bringing forward this motion was to draw the attention of this House to the craze for litigation obtaining among the peasant litigants. The evils have been in a way detailed by me. I think there is no difference of opinion whatever in this House as regards that.

The next point that I wanted to impress upon this House was the laws delays—that is, the evils arising from the delays of the law—on account of which our peasant litigants are losing very much. That has also been admitted by this House.

The third point I wanted to impress upon the Government was that the duty of Government should be to discourage such a sort of litigation as it is against the best interests of the country. The method suggested by me was to give speedier justice by investing the District Judges and Second Judges with small cause jurisdiction of Rs. 350 at least just as what obtains in British India where the jurisdiction extends to Rs. 500. These were the suggestions that I brought forward. On the assurance that this matter will be looked into at a proper time, I beg to withdraw this motion.

The motion was, by leave of the House, withdrawn.

Motion 107.

The following motion was not moved :—

MR T. KUMARA PILLAI :

107. To reduce the allotment of Rs. 35,272 for establishment by Rs. 100.

Motion 108.

MR. M. N. PILLAI (*Trivandrum*): Sir, I beg to move the following:

108. To reduce the allotment of Rs. 4,86,875 for Civil and Sessions Courts by Rs. 100.

There is a lot of complaint about the delay in the decision of cases by the civil courts. The delay in executing the decrees is still greater To a great extent, this is due to the policy of recruitment. The man who is appointed a Munsiff gets accustomed to a life without much hope. His salary is small and his work is very tight. The routine in a Munsiff's Court is to post a large number of cases every day. It will be only a small fraction of work which is thus posted which can be actually taken up. But, all the same, vakils, parties and witnesses without number will be in attendance. There is so much noise and so much

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. M. N. Pillai.]

confusion that the Munsiff finds it sometimes impossible to exercise all his powers for the benefit of the parties. Cases are adjourned sometimes fifty, sometimes a hundred times! In some courts, the issues will be raised only after two years and the diaries simply recorded സൗകര്യമില്ല. *i. e.*, no convenience. Some of my vakil friends have told me that the inconvenience is very great.

The evil is the same in the District Court also. Last year, Mr. Subba Aiyar said that, under the new High Court Regulation, a Judge must be doing more efficient work in inspecting subordinate courts when the courts are actually at work. I wish to know from the official member how many courts have been so inspected and what the general result was. The High Court begins its work at 11 o' clock punctually. But District Judges and Additional Judges attend the courts much later. And during the past few years, the subordinates of the Judicial Department have become unwilling to turn out the maximum work which they are capable of doing. This is due to discouragement and to disappointment in hopes of their legitimate promotions. There are cases in which vakils without sufficient standing in the bar are straightway appointed Judges over the heads of able and experienced Munsiffs. I am not at all against direct recruitment from the bar. But there must be some fixed percentage. When there is an unbending rule, no one can complain. If a particular vacancy is to be filled up by appointing a member of the bar in accordance with rules, it is all right. But at present the choice between the bar and the subordinate judiciary is arbitrary. It may depend on personal influence and a lot of other things. The Munsiff who loses his chances by this arrangement gets slack in his duty. I know of a certain Munsiff who got so much worried and unhappy by the appointment of a young legal practitioner over his head that he became indifferent to his work. In deciding cases he is reported to have said that his business was merely to give a passport for appeal.

I must also say that lazy men should not be given promotions. It is not possible to believe that all Judges and Munsiffs are equally efficient. But there is not a single instance of promotion being barred for that reason. Promotions come in a merely automatic manner. The promotion of District Judges to the High Court also arises in this connection. The senior District Judge does not know if the next vacancy in the High Court will go to him. He fears that, in these days of communities fighting for their own men, his claims will be defeated by appointing a Vakil straightway as a High Court Judge. Sir, if Judicial Officers cannot be sure of their claims for promotion, they get disappointed and their work begins to suffer.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I ask Mr. M. N. Pillai whether there has been any instance of a Vakil having been appointed direct to the High Court within the past five years?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. M. N. PILLAI (*Trivandrum*): There have been many instances.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): To the High Court?

MR. M. N. PILLAI (*Trivandrum*): Mr. Kochukrishna Marar was appointed.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): That was very many years ago.

MR. M. N. PILLAI (*Trivandrum*): Mr. Sesha Aiyar was also appointed.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): My question was whether anybody was appointed in the last five years.

MR. M. N. PILLAI (*Trivandrum*): I believe there were no Vakils appointed.

It may be laid down that a certain fixed number of places in the High Court should go to the District Judges and a certain number to practising lawyers. I therefore make the motion to discuss the principle of appointment to the posts in the Judicial service.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, in Mr. M. N. Pillai's motion so many diverse matters have been brought forward that it will hardly be possible to deal with all of them as a single motion. I think he wound up the motion by saying that he brought this motion to discuss the principle of recruitment to the judiciary. In the last motion also, that matter was touched upon by some members. I can understand that there is really some feeling with regard to this matter. The point of criticism appears to be this—not that Mr. M. N. Pillai does not want recruitment from the bar but that there should be a definite rule as to when there should be recruitment from the bar and when from the service. Mr. P. K. Narayana Pillai, and I think Mr. Changanachery Paramesvaran Pillai, also suggested recruitment from the bar and pointed out that the judicial work is getting slack and that sufficient work is not turned out because judicial officers are not recruited from the bar in sufficient numbers. Sir, this is really a very knotty question, between the Munsiffs on the one side and the Vakils on the other, something like the perpetual fight between the cats.

MR. M. N. PILLAI (*Trivandrum*): May I know how the quality of the Munsiffs promoted from the department compares with the quality of the Munsiffs recruited directly from the bar?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I don't think it is possible to give a definite answer. I am sure that such a comparison has not been made. There are Munsiff-Judges who are very competent officers and who have received the approbation of the public, the High Court and the Government. It may be, there are some Vakil-Judges who have not received the approbation of the High Court or the public or the Government. It may not be possible to express as a definite opinion that a Munsiff-Judge is better than a Vakil-Judge or that a Vakil-Judge is better than a Munsiff-Judge. All that I can at present say is that the principle of recruiting

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayalam Parameswaran Pillai.]

members from the bar to the judiciary is recognised by the High Court and by the Government, in the appointment of Munsiffs one-half of whom are recruited from the bar and whenever found fit recruitment to the Judgeship is also resorted to from the bar. I don't think it is quite a right criticism to say that no recruitments were made from the bar to the judiciary.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know the number of District Judges recruited directly from the bar?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): There have been many. Recently also there was one instance.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Excepting that solitary instance, is there any other instance?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Including Second Judges there have been many instances. Even to District Judgeships there have been recruitments direct from the bar before now. That may be few. There have been, however, many instances where Vakils have been recruited into the Judiciary as second Judges.

Probably the real criticism is that a definite rule is not laid down as regards recruitment to all the ranks of the judiciary. That may be a correct criticism. But in this matter, in the matter of appointments to the higher places, it seems to me that it is not advisable or feasible to lay down a distinct rule. There must be room for choice and room for selection in all such cases by the person who is to make the appointment. And though there has been no definite rule it cannot be said that the Bar has suffered. That being so, it seems to me, it is not quite right to criticise the method of recruitment. If the House is really serious about a rule being laid down as to the proportion in which appointments are to be given to the bar and to the service in the matter of recruitment to the judgeships, that may be considered by the Government and the High Court and the debate in this House may also be transmitted to the High Court for their consideration.

In regard to the other matters, I do not think that Mr. M. N. Pillai expects a reply from me excepting probably in regard to one point *viz.*, as to how many courts were inspected after the last High Court Regulation was passed. If he had raised this question specifically, it might have been possible for me to say definitely how many courts were inspected. But even now, I may say that I know that a Judge of the High Court did recently inspect the subordinate courts in Trivandrum. He spent about five or six days in inspection. He might have noted defects. If he did, of course he might have set them aright. That would be beneficial to the courts themselves and to the litigant public. I am sure that, as occasions arise, the Judges of the

LIBRARY ARCHIVES Kerala Legislative Assembly

High Court will inspect other courts also. All that I can say in regard to this question is that the matter will be attended to by the High Court.

MR. M. N. PILLAI (*Trivandrum*): May I know whether it is not possible for the courts to dispose of cases with the minimum delay possible?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): That is a very large question as Mr. Subba Aiyar said on a previous occasion. The matter is engaging the attention of the British Government where a committee was appointed to look into the question of "law's delays." Their report is now engaging the attention of the authorities there. It will be probably very expensive, and it is not at all necessary for us to appoint a committee of that sort here, because our system is so much based upon the system prevalent in British India, and when the British system is to undergo a change, we had better wait until they come to a decision. After that, we may consider whether we cannot adopt their system. Until then, it seems to me too early to pronounce any opinion on this matter. It will not be advisable also to take any steps especially because in British India a reform is to take place.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the inspection of the subordinate courts during vacation is satisfactory?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): It may or may not be satisfactory. It was thought that the inspection of courts during vacation was not quite sufficient and therefore the High Court Regulation was amended so that Judges may now go to subordinate courts during court-time for inspection. If necessary they can even pay surprise visits. By this method they might find out how really the courts are working.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know how many inspections were made by the High Court Judges?

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I said Mr. M. N. Pillai did not draw specific attention to this aspect of the question. Therefore it is not possible to answer definitely just now. But I know as a matter of fact that one Judge did inspect the subordinate courts in Trivandrum.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, Mr. M. N. Pillai has drawn attention to some aspects of the working of the Judicial Department resting his discussion mainly upon two broad principles, namely, recruitment and promotion in the judiciary.

As for recruitment, the existing rule seems to be that Munsiffs are appointed either directly from the bar or by promotion from the department. I may say that every alternate appointment is given to the members of the bar. It goes without saying that a Vakil who accepts a place as a Munsiff will ordinarily be one without practice worth the name and therefore it may be safely stated that he is often without

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

much experience of practical work. As for recruitments from the department, it is much worse. Because so far as the Vakils are concerned, they are expected to pass the Civil Procedure Code and the Criminal Procedure Code Examinations before they are enrolled as High Court Vakils and it is the High Court Vakils that are generally appointed as Munsiffs.

Passing on to the case of those who are drafted from the department, it is sometimes said that they know something about the procedure in the courts because they receive official returns and dispose of them. I believe this is rather undesirable. There may be some exceptions to this rule as there are exceptions to every rule. In my opinion it is desirable that no less than two-thirds of the appointments of Munsiffs should go to the members of the bar and the remaining one-third alone to the department.

Passing on to the next question of District Judges, Mr. M. N. Pillai pointed out that Munsiffs are denied promotions and that there are direct recruitments from the bar. I can tell him that it is now too late in the day to say that recruitment of Judges, whether to the District Courts or to the High Court, should be by promotion alone. Once a person without practice enters as a Munsiff, it need not be said that he should aspire to posts such as that of a District Judge and a High Court Judge as a matter of course whether he is fit for it or not. Therefore I say the wholesome principle has been established in all civilised countries that recruitment from the bar should be more frequent than recruitment by direct promotion. I may in this connection draw the attention of the House to the fact that in England a person who accepts appointment as a Judge cannot expect to become the Lord Chief Justice who is always drafted direct from the bar. So then, appointment direct from the bar ought to be more frequent in order to infuse fresh blood into the Judicial Department. By adopting such a method, lazy people might have no chance of getting promotion. As Mr. M. N. Pillai puts it, the officer may become discontented and so lazy. When he becomes a District Judge, he will be old, and when he becomes a High Court Judge he will be very old. That being the case, he will not be able to turn out as much work as a Judge recruited from the bar. Moreover, a Munsiff who is promoted as a District Judge may not have time to refer to Law Reports and thus keep himself up to date with rulings in law and therefore it is not possible for him to discharge his duties very speedily.

As my friend Mr. M. N. Pillai complained, there ought not to be promotion as a matter of course. His point is that every Munsiff should not be promoted as a District Judge and every District Judge should not be promoted as a High Court Judge. I entirely agree with Mr. M. N. Pillai in that respect, namely, that we must promote efficient Munsiffs as Judges and efficient District Judges as High Court Judges. When I suggested this to some of the High Court Judges, they told me that

LIBRARY ARCHIVES Kerala Legislative Assembly

they were confronted with a difficulty. The difficulty seems to be that if a man who is a Nayar or Christian is superseded by another, all sorts of motives are attributed to the members of the High Court.

MR. M. N. PILLAI (*Trivandrum*) : Is it not possible to compare the outturn of work ?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): It is not quite possible when the outturn of the work alone is taken into consideration. There is also the quality of the work. It depends also on other considerations. So that, the question is beset with practical difficulties. Supposing the member to be promoted is a non-official and the man to be superseded is a Nayar or Christian or Brahmin, there comes from the papers a loud cry that a particular man is going to be superseded.

MR. M. N. PILLAI (*Trivandrum*) : If I am allowed to make a suggestion, may I suggest that a particular rule should be fixed that people who do efficient work should be given promotion?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : I entirely agree with my friend. But the difficulty seems to be in ascertaining what is efficient work. As I said, when a representative of a particular community is to be superseded, it will be said that he is a really efficient man and a very honest and ideal Judge and that man is going to be superseded in favour of another.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does he mean to say that the High Court are unable to do their work on account of criticisms ?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : Not exactly. But it will be difficult under the circumstances. I will be quite happy if the fight for communal representation even in the matter of promotion is not being carried to the extreme.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) : I think this fight takes place only in respect of first appointments.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : I may answer that it happens to be so in every case. It does not stop with first appointment alone.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : May I know whether, in the matter of the appointment of the High Court Judges, the High Court Judges themselves have any voice ?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : No ; I do not think they have. Lastly, in the matter of the High Court, I think there ought to be direct recruitment from the bar. There has not recently been any direct recruitment. It is highly desirable that, there should be recruitment from the bar so far as the post of a High Court Judge is concerned.

As for inspection pointed out by Mr. M. N. Pillai, I agree with him in thinking that, although the High Court Regulation was passed, the Judges as a rule did not go on tour as was originally intended. I

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. V. Subba Aiyar.]

believe they will inspect subordinate courts more frequently, so that if there is any laxity in the discharge of official duties by the subordinate judiciary, that may be set aright.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I also wish to support the motion of Mr. M. N. Pillai to a considerable extent but not entirely. This question of the appointment and recruitment of the officers in the judicial service was discussed in this Council at considerable length on a prior occasion at the instance of Mr. T. K. Velu Pillai. That gentleman pointed out the necessity of appointing the Chief Justice of the High Court of Travancore directly from the bar. Many of us had doubts as to the acceptability of such a procedure especially in view of the possibility of the damage that could be done to the claims of other Judges and subordinates in the Judicial Department. Today it was anyhow refreshing to hear Mr. V. Subba Aiyar quoting the practice elsewhere, in England, of appointing the Lord Chief Justice directly from the bar.

PRESIDENT: That is not always the case. The present Lord Chief Justice was appointed from the Bench.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I think this is the only exception. It was never the practice.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It appears to me also Sir, that there is much to be gained by appointing a Chief Justice directly from the bar. One advantage would be that the Judge would be able to appreciate the troubles of the litigants.

There is also a tendency for officers and judges in the judicial service as elsewhere to get into grooves. Even a practising lawyer, who has been appointed as a Judge, as time goes on, acquires certain settled habits in the matter of discharging his work which fix him in particular grooves. The present troubles of the litigant public and the improvements which should be introduced in the matter of judicial work would be better appreciated by a person who joins the Bench from the bar immediately. For example, we have been making mention of the delays of law. There is the other side of it also. Some Judges without giving an opportunity to adduce evidence and thereby to present the case in the true light proceed with break-neck speed to decision. Well, some litigants may be poor; they may not find the necessary money to take out processes for their witnesses or to adduce evidence in proper time. If a Judge is of opinion that on no account an adjournment should be granted in the interests of speedy justice, that would be injustice to the litigants concerned. Now these are some aspects of the question which would be better appreciated by the new recruits. It is in this view of the aspect of the matter that I say there is considerable force in the argument that the appointment of the Chief Justice of the High Court should be directly from the bar.

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In the matter of other recruitments such as District Judges and Munsiffs in the judicial service, the Law member was good enough to point out that two-thirds of the whole should be appointed from the bar. Some of the judicial officers, who were appointed on previous occasions, are persons who have joined the judicial service from the bar because they have been obliged to do so. They should not be allowed to haggle about promotions and preferments simply on the strength of the length of their service, in view of the circumstances in which they had their original start. Promotion certainly must depend upon the nature, the quality and the outturn of work. The general principle ought to be that recruitment, as far as possible, should be confined to the bar.

The other two questions referred to by Mr. M. N. Pillai have reference to the inspection of the Courts. With this particular view the High Court Regulation has been amended but it is not long since such amendment was made. Regarding that matter, the Law Member observed correctly that one of the Judges inspected the Munsiffs' Courts and the District Court in Trivandrum. Such occasional inspection of the working of the courts would conduce to better the tone of the administration of law.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, it was pointed out that, by mechanically and automatically promoting Munsiffs regularly as District Judges and High Court Judges, inefficient men get promoted and are made to hold very responsible posts which they are entirely incompetent to hold. That is a very serious matter to be considered, but, as a remedy against such a state of things, it was suggested by my Vakil friends here, that a certain fixed proportion of the Judges should be recruited directly from the bar. In that connection, I have to point out that, in a small country like Travancore, if a hard and fast rule like that were introduced, mediocre Vakils, Vakils altogether incompetent to be even Munsiffs, may get promoted owing to various considerations and influences. We have to guard against both these dangers. With regard to the point raised by Mr. M. N. Pillai, that there will be dissatisfaction among the members of the judicial service if raw recruits are largely appointed directly as judges, I think there is considerable weight to be attached to that statement. That may be removed, I think, if persons already in the service are made to understand from the very outset that there will be occasional recruitments of judges from the bar. Then there ought not to be any reason to complain. In the past, in Travancore, we have been very rarely recruiting members of the bar directly to the Bench and therefore it is but reasonable that, when that practice was increasingly resorted to, considerable dissatisfaction and heart-burning have been caused to Munsiffs already in service.

In the case of promotions, I think it is highly desirable to have an efficiency bar. In the case of Munsiffs and Judges, Mr. Kayalam Paramesvaran Pillai or Mr. Subba Aiyar was referring to the difficulty of determining whether a person is really an efficient officer or whether he is not entitled to any promotion. That is no doubt a difficulty

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[Mr. K. C. Mammen Mappillai.]

But in the far more paramount interests of justice and the imperious interests of the people themselves, this difficulty must somehow be solved. In these days when approximately correct instruments have been invented for measuring the brain capacity of people, surely there ought not to be much difficulty for the High Court to decide whether a Munsiff who has a long service is fit to be promoted as a Judge. I lay special emphasis upon this fact, because we know that absolutely incompetent persons have often been promoted as Judges, and as it has been a growing evil here. I do not say that it is confined exclusively to promotions from the cadre of Munsiffs. Probably the most glaring instance of incapacity in judicial officers is, I think, in the case of a direct recruitment from the bar. I may be wrong; but it is my impression that there has been a consensus of opinion in the case of a particular individual recruited from the Bar as a judge that he was utterly incompetent. There may have also been incompetent members in the judicial service who have been promoted from the ministerial staff of the High Court. Therefore no hard and fast rule should be—

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): May I ask whether that incompetent officer was a Munsiff or a Judge?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Having made such pointed reference to it, I should not make myself more definite. But I will say that the officer held the position of a Judge.

With due consideration to the undeveloped nature of the Bar in Travancore, I am surely against laying down a rule that a certain proportion of lawyers should be directly recruited as judges. Whenever there are competent men at the bar, persons who will be making a real sacrifice, in a pecuniary sense by accepting a judge's place, there should be no hesitation in raising them to the Bench.

MR. KAYYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): What is the principle that the member wants to lay down in regard to the recruitment of officers?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): My own opinion is that there should be recruitment both from the bar and from the department. But, for the time being, our country is not advanced enough for laying down a definite rule to the effect that a certain number or proportion of judges should be recruited directly from the bar. Anyway, I am quite against the suggestion that two-thirds of the judges must be recruited directly from the bar.

MR. T. J. MATTHEW. (*Changanachery* cum *Peermade*): Is Mr. Mammen Mappillai of opinion that *no* hard and fast rule *must* be laid down?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): My view is that there should be an elastic rule laid down with regard to the number and proportion of judges to be recruited from the bar. I am quite against laying down any definite number or a definite proportion. There must be an elastic rule. This rule should be capable of being approximated to the circumstances and the times.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does he mean by 'elastic principle', a principle that could be broken?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Surely; because, if a definite proportion is fixed, it may happen, in particular circumstances, that it is the turn of a vakil to get the place of a judge, and, under such circumstances, Government may be forced, or tempted to appoint even an absolutely incompetent person from the bar.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether, in that case, there is any need for laying down any principle?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): As in all human affairs, a principle must be laid down with the possibility of making departures if necessary. If it is said that only hard and fast principles should be laid down, I think, it will be impossible to lay down any principle.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I ask Mr. Mammen Mappillai whether he did not say, when he was discussing the question of giving promotions to judicial officers, that, if a definite principle is laid down fixing the proportion of recruitment from the bar, there would be no reason for heart-burning and complaint on the part of judicial officers, in case any direct recruitment from the bar is resorted to by Government?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Yes, I did say so. I think I mentioned the fact that in former years there was absolutely no direct recruitment from the bar. At any rate, it was very rare. A few decades ago, so far as my memory goes, direct recruitment, from the vakils to the place of judges, was very rare. Nowadays it has increased, and, therefore, persons who entered the judicial service in the good old days, when there was little recruitment from the bar, do feel a good deal of heart-burning when they find now that direct recruitment from the bar as judges is frequently resorted to to the prejudice of their promotions.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know from Mr. Mammen Mappillai whether he did not state that a definite principle fixing the proportion of recruitment from the bar would remove heart-burning on the part of judicial officers?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I said that as far as possible an elastic principle must be laid down with regard to the number and proportion of persons to be recruited from the bar. I did not say that there must be a hard and fast rule. I am quite sure that such a large proportion as two-thirds of the judges' posts and higher judicial offices,—

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MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I said that only with reference to Munsiffs, and not Judges.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Then, that is quite a different matter.

MR. C. P. THOMAS (*Nominated*): I beg to add a few words to what has already been said. Mr. Mammen Mappillai's real objection was to lay down a fixed proportion regarding the recruitment from the bar and from the department. His difficulty was this. If a fixed proportion is laid down, the Government or the appointing authority would be obliged to take a vakil as judge, even though he may not be quite competent for the place, simply because it happens to be his turn for the judge's place, according to the proportion fixed. Mr. Mammen Mappillai wanted to avoid that evil.

MR. K. K. THOMAS (*Kottayam*): Are there not enough competent vakils in the country so as not to give room for the evil that he contemplates?

MR. C. P. THOMAS (*Nominated*): At present, Government are free to choose from them if there are competent vakils. What I say is that the Government should not be tied down to a fixed proportion. I think it would be enough if the principle, that, as far as possible, a good proportion of the recruitment to the bench should be from the bar, is laid down. Because, as I said, if a fixed proportion is laid down, the appointing authorities would be obliged to appoint a man who may not be really fit for the place. That evil could be avoided by merely accepting, in general, the principle that, as far as possible, a good proportion should be recruited from the bar.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know from Mr. Thomas whether a graduate who had been trained for the teacher's profession, is to be preferred for the teacher's place to one who has not been trained?

MR. C. P. THOMAS (*Nominated*): I think a trained graduate should be preferred.

MR. M. N. PILLAI (*Trivandrum*): I brought this motion with a view to point out to Government the delay in the disposal of cases in courts of law. I am sorry that the Law Member was not able to give me a definite answer about that.

As regards the inspection of the lower courts by the High Court Judges, I am sorry that, though the High Court Regulation was passed about a year ago, the Judges were not able to make frequent inspections, till now, in order to make these subordinate Judges and Munsiffs turn out good work.

As regards recruitment from the bar, our vakil friends have said enough and more, and so I have nothing more to say.

In the matter of promotions, I think the claims of Munsiffs and Judges must not be overlooked. But, whenever they are to be promoted, their efficiency should be tested.

LIBRARY ARCHIVES Kerala Legislative Assembly

Before withdrawing my motion I wish to hear the Law Member on the other points raised by me.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Mr. M. N. Pillai wound up his motion by saying that he brought his motion to discuss the question of recruitment from the bar. In regard to that matter, I am glad that such a large number of members have spoken. It has been observed that there is a sharp difference between two parties in the House, one wishing to have a definite proportion laid down for recruitment from the bar, and the other saying that there should not be any such definite rule. The only thing that was found to be common between the two parties is that there should be recruitment from the bar. So far as that is concerned, as I have already explained, it seems to me that there is no ground for complaint.

But, as to *when* a member of the bar should be appointed and *when* a person in service should be promoted as Judge, there seems to be a difference of opinion. It seems to me that, so far as that matter is concerned, the best thing that could be done under the circumstances will be to leave the matter to the authorities concerned. The High Court consists not of one individual but of six individuals. Generally, the recommendation of the High Court is taken by Government in the matter of appointing a person as a Judge. If they recommend that a member of the bar may be appointed and if the recommendation is either unanimous or supported by a considerable number of the High Court Judges, then that recommendation has to be accepted.

MR. K. K. THOMAS (*Kottayam*): May I know whether the High Court has anything to do with the appointment of High Court Judges?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): So far as I know, they have nothing to do with it. I was speaking of the subordinate judiciary, the Judges and the Munsiffs. In that matter the High Court usually express their opinion and that opinion is considered by Government and generally accepted. The High Court, as I said, consists of six individuals, probably of different temperaments, who belong to different communities. Naturally when they come to a unanimous conclusion that a particular person should be appointed as Judge—whether it be a member of the bar or of the department—that has as a rule to be respected by the Government and also by the public, coming as it does from a very responsible body. It may be that nobody's action is above criticism. But, when a responsible body, consisting of six persons, come to a conclusion, it seems to me that that should generally be accepted as the best solution of the question at the time.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is the opinion of the High Court invariably obtained at the time of appointing District Judges and Second Judges?

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MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): It is invariably obtained. The Rule on the point may be seen from the *Civil Courts' Guide.*

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): Is it acted upon?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I daresay.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Are they unanimous in making such recommendations?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I believe they are generally unanimous. If they differ in their recommendation, Government use their discretion. But I think that is few and far between.

A great responsibility rests with the High Court who are responsible for the administration of justice in the country. That being so, and since the members of even this House are not unanimous in the matter of laying down a definite rule of recruitment from the bar, I venture to think that the practice now current must be followed. However, the debate in this House may be considered by Government and also conveyed to the High Court for their consideration.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I know whether the High Court are asked by Government in all cases, to recommend a person (from the bar or from service, as they like) for a place in the judiciary, or whether they are asked only in cases where Government want to recruit one from the bar?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Government ask the High Court to select a person. Government do not generally say whether the nomination should be from the bar or from service. The High Court sometimes select from the bar and sometimes from the judicial service. That is how I understand it.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I request the Law Member to say definitely whether, in the appointment of Mr. C. Raman Tampi, the opinion of the High Court was called for?

PRESIDENT: I do not think you are entitled to ask that question.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The Law Member has made an assertion that invariably the opinion of the High Court is obtained before the Government make any appointment in the Judiciary. I am just testing the accuracy of that statement.

PRESIDENT: I do not think you can go into particular cases now.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I said 'invariably'. Probably there may be exceptions. That is a different matter. I am sure the opinion of the High Court is invariably obtained, before Government make any appointment to the subordinate judiciary. That is also what is laid down in the *Civil Courts' Guide.* So long as that is the practice, that has to be accepted as

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the only possible solution of this difficult question of recruitment. I hope, under the circumstances, Mr. M. N. Pillai would be satisfied if this debate is given due consideration and that he would find his way to withdraw his motion.

MR. M. N. PILLAI (*Trivandrum*): On that assurance, I withdraw my motion.

The motion was, by leave, withdrawn.

Motion 109.

The following motion was not moved:

MR. T. KUMARA PILLAI:

To reduce the allotment of Rs. 4,86,875 for Civil and Sessions Courts by Rs. 100.

Motion 110.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): Sir, I beg to make the following motion:

110. To reduce the allotment of Rs. 80,600 for Criminal Courts by Rs. 100.

ഇടക്കാലത്തുവരുത്തിയതായ പരിഷ്കാരത്തോടുകൂടി ജനങ്ങൾക്ക് അത്യാവശ്യമായ പലേ മജിസ്ട്രേട്ടുകോടതികളും നിറുത്തുകയാണു ചെയ്തിട്ടുള്ളതു്. ജനങ്ങൾക്ക് അവരുടെദേഹത്തിനും സ്വത്തുക്കൾക്കും രക്ഷയായി നിൽക്കുന്ന മജിസ്ട്രേട്ടുകോടതികളെ, വേണ്ടപോലെആലോചിക്കാതെയും ജനങ്ങളുടെ സൌകര്യങ്ങളെ ഗണിക്കാതേയും, കുറച്ചിട്ടുള്ളതിൽ കൌൺസിലിന്റെ ശ്രദ്ധപതിയേണ്ടതായിരിക്കുന്നു. ഇതിനെ ദൃഷ്ടാന്തത്രുപേണ തെളിയിക്കാം. ഇരണിയൽ താലൂക്കിൽ കുളച്ചൽ, ഇരണിയൽ ഈസ്ഥലങ്ങളിലും, കൽക്കുളംതാലൂക്കിൽ പത്മനാഭപുരം, തിരുവട്ടാർ ഈ സ്ഥലങ്ങളിലും, മജിസ്ട്രേട്ടുകോടതികൾ ഉണ്ടായിരുന്നു. ഇരണിയൽ, കൽക്കുളം ഈരണ്ടുതാലൂക്കുകളേയും ഒന്നായിക്കൂട്ടിച്ചേർത്തു ഒരുതാലൂക്കാക്കിയപ്പോൾ നാലു മജിസ്ട്രേട്ടുകോടതികളുണ്ടായിരുന്നതിനെ ഒന്നാക്കി കുറയ്ക്കുയാണ് ചെയ്തിട്ടുള്ളതു. മജിസ്ട്രേട്ടുകോടതികളിൽവരുത്തീട്ടുള്ള ഈ കുറവു അവിടെയുള്ള ജനങ്ങളുടെ ദേഹത്തിനും സ്വത്തിനും ഉണ്ടായിരിക്കേണ്ട രക്ഷയ്ക്കു വലുതായകുറവുവരുത്തീട്ടുണ്ടെന്നുള്ളതിൽ അഭിപ്രായവ്യത്യാസത്തിനു അവകാശമില്ലാത്തതാണു്. ജനങ്ങൾക്കു സൌകര്യമായി കൽക്കുളംതാലൂക്കിൽ മജിസ്ട്രേട്ടുകോടതികൾ ഇല്ലാതെവന്നതിനാൽ പണവും സ്വാധീനവുമുള്ളവക്കു സാധുക്കളെ എന്തും ചെയ്യാമെന്നുള്ള നിലയിൽ ഇപ്പോൾ എത്തിയിരിക്കുന്നു. ഈസങ്കടം പ്രധാനമായിഅനുഭവിക്കുന്നതു കൽക്കുളംതാലൂക്കിൽ മലയോരത്തുള്ള പകുതികളിൽ നിവസിക്കുന്ന ജനങ്ങളാണു്. ഇവരെ ഉദ്ദേശിച്ചാണു തിരുവട്ടാറു ഒരു മജിസ്ട്രേട്ടുകോടതിമുമ്പുണ്ടുപ്പെട്ടുത്തീട്ടുണ്ടായിരുന്നതു്. പരിഷ്കാരത്തിൽ ഈ ജനങ്ങളുടെ രക്ഷയ്ക്കും അ

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[Mr. T. Kumara Pillai.]

വരുടെ സങ്കടങ്ങൾക്കും വിലകുറഞ്ഞുപോകയും മജിസ്ട്രേട്ടുകോടതിയെ അവിടെനിന്നുഎടുത്തു കളകയുംചെയ്യുക. ഗവർണ്മെൻറിൻെറ ഈനയം മുൻസിഫ്കോടതികളെ സംബന്ധിച്ചു കാണുന്നില്ല. ജനങ്ങൾ ചോദിച്ചാൽ ഉടനെമുൻസിഫ്കോടതി കെട്ടുക്കും. ഒരുമുൻസിഫിനെക്കൊണ്ടു മതിയായില്ലെങ്കിൽ അഡിഷണൽമുൻസിഫിനെകൊടുക്കുന്നു. അതുകൊണ്ടും മതിയായില്ലെങ്കിൽ ടെമ്പററിമുൻസിഫിനെക്കൂടികൊടുക്കുന്നു. മുൻസിഫ്കോടതികൾ ഗവർണ്മെൻറിനു ലാഭത്തെ ഉണ്ടുക്കുന്നതും മജിസ്ട്രേട്ടുകോടതികൾ ഗവർണ്മെൻറിനു നഷ്ടത്തെ ഉണ്ടാക്കുന്നവയുമാണ്. ജനങ്ങളുടെ സുഖസൌകര്യങ്ങൾ എങ്ങിനേതന്നെയിരുന്നാലും അതുകളെപ്പററി ഗണിക്കാതെ ഗവർണ്മെൻറിനു ലാഭമുണ്ടാക്കുന്ന സംഗതിക്കാണ് പ്രാധാന്യമുണ്ടായിരിക്കുന്നതു്. ജനങ്ങളുടെസൌകര്യത്തിനുവേണ്ടി പൂർവ്വസ്ഥിതിയിൽ തിരുവട്ടാറു ഒരുമജിസ്ട്രേട്ടുകോടതി കൊടുക്കേണ്ടതാണ്. ഈസംഗതിയിൽ കൽക്കുളം താലൂക്കിനെ ഒരു ദൃഷ്ടാന്തമായി പറഞ്ഞു എന്നേയുള്ളൂ. ഇങ്ങനെ നോക്കുന്നതായാൽ, ഈ രാജ്യത്തിൽ പലസ്ഥലങ്ങളിലും ജനങ്ങളുടെ രക്ഷയ്ക്കുവേണ്ടി മജിസ്ട്രേട്ടുകോടതികൾ കൊടുക്കേണ്ടതായുണ്ട്. ഈ സംഗതിയിൽ ഗവർണ്മെൻറിൻെറ ശ്രദ്ധ പതിയേണ്ടതാണ്.

മജിസ്ട്രേട്ടന്മാരിൽ മിക്കവാറും ആളുകൾ സത്യസന്ധന്മാരും യോഗ്യന്മാരുമാണെന്നു ഞാൻ സമ്മതിക്കുന്നു. അതുപോലെതന്നെ അവരിൽ അപൂർവ്വം ചിലർ യാതൊരു സംശയമൊ, മടിയൊ, ക്രമലൊ കൂടാതെ കൈക്കൂലിവാങ്ങുന്നവരും ഉണ്ടെന്നുള്ളതു് സമ്മതിയ്ക്കാതെതരമില്ല കൈക്കൂലിയെപ്പററിയൊ, കൈക്കൂലിവാങ്ങുന്ന ഉദ്യോഗസ്ഥന്മാരെപ്പററിയൊ നിയമസഭയിൽ പറയേണ്ടആവശ്യമില്ലെന്നാണു എനിക്കു തോന്നുന്നത്. പബ്ലിക്കു സർവ്വീസിൽ കൈക്കൂലിക്കാരായ ഉദ്യോഗസ്ഥന്മാരുണ്ടെന്നു ജനങ്ങൾ കാണുകയും അതിനാൽ ജനങ്ങൾക്കു സങ്കടമുണ്ടെന്നു തോന്നുകയും ചെയ്യുന്നതായാൽ അവർ വേണ്ട തെളിവുകളോടുകൂടി ഗവർണ്മെൻറിനോടു പറഞ്ഞാൽ അവർ വേണ്ടതു ചെയ്യുമെന്നാണു ലാമെംബർ പറയുന്നത്. അതല്ലാതെ, ഗവർണ്മെൻറിനു അതിൽ പ്രവേശിച്ചു അവരുടെ ഉദ്യോഗസ്ഥന്മാരുടെ കൈക്കൂലിയെപ്പററി അന്വേഷിക്കാനും അതിൻെറ ഫലമായി അവരെ ശിക്ഷിക്കാനും സാധിക്കയില്ലെന്നുമാണു ലാമെംബർ പറയുന്നതു്. കൈക്കൂലിയെപ്പററിയുള്ള നിയമം ഉണ്ടാക്കീട്ടുള്ളതു് ഉദ്യോഗസ്ഥന്മാരാണ്. അവക്കു വേണ്ട രക്ഷ അവർ അതിൽ കരുതീട്ടുമുണ്ട്. ഈ നിലയിൽ കൈക്കൂലിക്കായ്ത്തിൽ ജനങ്ങളൊ അവരുടെ പ്രതി പുരുഷന്മാരൊ കണ്ണുക്ഷോഭം ചെയ്യാതെ അവക്കു വന്നു

LIBRARY ARCHIVES Kerala Legislative Assembly

ചേരുന്ന സങ്കടങ്ങളെ സമാധാന ബുദ്ധിയോടുകൂടി സഹിച്ചും ആ സങ്കടങ്ങളെ ദൈവത്തിൽ സമർപ്പിച്ചും ജീവിതം കഴിച്ചുകൂട്ടുന്നതു നന്നായിരിക്കുമെന്നാണ് ഞാൻ വിചാരിക്കുന്നത്.

ഏതായാലും ഇതോടുകൂടിഒരു സംഗതി കൂടി ഇവിടെ പറയേണ്ടതായിരിക്കുന്നു. ഇരണിയൽ മജിസ്ട്രേട്ടുകോടതിയുടെ ഇന്നത്തെ സ്ഥിതികളെപ്പറ്റി ഗവർണ്മെൻറിൽനിന്നും ചുമതലപ്പെട്ട ഒരുദ്യോഗസ്ഥനെക്കൊണ്ടു ശരിയായ ഒരന്വേഷണം നടത്തിയാൽ കൊള്ളാമെന്നു എനിക്കു അഭിപ്രായമുണ്ടു.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, in regard to the specific point raised by the member in moving this motion, I regret very much that I am not in a position to say anything definite at the present moment. Because, that was not specifically mentioned in the notice given to me. It may be that there is considerable hardship for the inhabitants of the locality referred to on account of the absence of a Magistrate's Court in that particular place. I may however bring to the notice of this House that it was only two years ago, that the whole system of the location of Criminal Courts was re-organised. At that time public criticism was invited and there was some public criticism. It was heard and considered by Government, and after that, these Courts were established in various centres. It is now only two years since that was done. Now, if that is to be revised, it seems to me, very cogent reasons and weighty representations will have to be made, and Government also must feel convinced that there is real hardship. All that I can say at present is that, if the inhabitants of the locality make representations to Government, that there is real hardship, then Government may seriously consider the matter.

PRESIDENT: I do not think you can expect representations from the inhabitants of the locality because the member said that the people were not bold enough to complain and that they sent up their complaints to heaven alone.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I think, Sir, that is as regards corruption. I am speaking about the establishment of Magistrates' Courts.

In regard to the observation by the member about corruption, I do not think there is any need for me to say anything to-day, as the matter was dealt with by me on a previous occasion and as the President also has spoken upon it.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Sir, I beg to support the motion of Mr. Kumara Pillai, and, in doing so, I should like to point out that Magistrates' Courts are required in some other places also. For example, at Mavelikara, in my constituency, there was one Magistrate's Court which was abolished during the re-organisation. At Haripad, there was a Magistrate's Court which also was abolished at the time. The people of all these places have been complaining that they are being put to very great difficulty owing to the abolition of these courts. Now, for these two taluks and for a part of Karunagapalli, there

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Raman Menon.]

is only one Magistrate's Court and that of a Second Class at Kayancolam. Formerly, there was a First Class Magistrate's Court at Kayancolam. Now, the people in some of these places have to go to Alleppey for filing complaints in the First Class Magistrate's Court; and in other parts, they have to go to Quilon. In these ways they are being put to very great difficulty.

Another point that I have to say in regard to this matter is with respect to the complaints from the masses of the people that they do not get justice administered to them. The matter was threshed out yesterday. It seems to me that the main point has not been very well emphasised. The main cause of the dissatisfaction on the part of the people in regard to the administration of justice happens to be either in the matter of the incompetency of the officers or their corruption, on account of which the people are led to think that they are more or less helpless in the hands of the officials. They seem to have very little power to control the actions of the officers. Therefore, it seems to me that the only remedy as regards the dissatisfaction on the part of the people, with regard to the corruption on the part of the officials, or, in the matter of the appointment by higher authorities of incompetent persons, is that the higher authorities should be made responsible to the people. That is the only way in which these complaints can be remedied. It was remarked that no hard and fast rule can be laid down as regards recruitment to the Judiciary. In that matter also all these complaints can be remedied if the higher officers or authorities, who are responsible for all these appointments, are made responsible to the people. Much has been said about the responsibility in the matter of administration of justice on the part of the High Court and on the part of other officials. But, to whom are they responsible? I think the only kind of effective responsibility which we can understand is the responsibility to the representatives of the people. If that is accomplished, I hope there will be much less of complaint from this side of the House against the actions of the officials. With these words, I support the motion.

MR. M. SIVATANU PILLAI (*Tovala*): In seconding the motion of Mr. Kumara Pillai, I just wish to point out the necessity, not for an additional Magistrate's Court, but for additional powers of jurisdiction for the Magistrate's Court at Kottar, in Nagercoil. Before the taluks of Tovala and Agastisvaram were re-arranged there were two Magistrates' Courts, one at Tovala and the other at Agastisvaram. Subsequent to the rearrangement, one of the Courts was abolished and only one Magistrate's Court was instituted in Nagercoil which is the second important town in the Travancore State. Before that, the Magistrate there had First Class powers. Subsequently, there was a Second Class Magistrate at Agastisvaram. Now, it is to be regretted that there is only a Third Class Magistrate's Court. I need hardly point out that Nagercoil is the second most important town in the State where in ad-

LIBRARY ARCHIVES Kerala Legislative Assembly

dition to the District Court, there is an Additional District Court and a District Munsiff's Court. That is the most important town in South Travancore and it has jurisdiction for civil justice over about 34 square miles. It is highly necessary that there is a First Class Magistrate's Court there, or, if possible, an additional District Magistrate with First Class as well as appellate powers. In this connection, I may point out, as Mr. Kumara Pillai also wanted a Magistrate's Court at Kalkulam, that the Additional District Magistrate's Court at Padmanabhapuram may be transferred to Nagercoil, where it is highly necessary, being the most important place in South Travancore. I hope it will be acceptable to Government.

Another point to which I want to draw the attention of Government is that there is a good deal of confusion with regard to the powers vested in the Additional District Magistrate at Padmanabhapuram and in the District Magistrate at Trivandrum. In one instance, there was a dispute, among the Mahomedans of Kottar, with regard to a mosque. One party sent up a petition to the Additional District Magistrate at Padmanabhapuram and it was disposed of in one way. On the same subject an identical petition was sent to the Trivandrum District Magistrate, and he gave an entirely different verdict on the same subject matter. Somehow or other, the matter was referred to the High Court for their opinion. The Additional District Magistrate at Padmanabhapuram submitted a report. I do not know how the matter has been disposed of by the High Court. What I submit is that there is confusion of powers, as defined by the Criminal Procedure Code, between the Additional District Magistrate at Padmanabhapuram and the District Magistrate, Trivandrum, and I hope Government will be in a position to define their respective powers.

MR. N. V. JOSEPH (*Parur*) : Sir, I may also be allowed on behalf of my constituency to state that there was a Magistrate's Court at Parur and that was taken away from there to Alwaye during the re-organisation. At present, there is only a Third Class Magistrate at Alwaye. But before the shifting of the Stationary Magistrate's Court at Alwaye, we had a Second Class Magistrate's Court at Parur.

Apart from that, as Mr. Kumara Pillai has touched on the question of recruitment of Magistrates, I have to submit that, from wherever they may be recruited, they should not be recruited from the Police force (*Hear, hear*).

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : ഒരു പോലീസിൽ നിന്നും മജിസ്ട്രേട്ടന്മാരാക്കിയവരെ അറിയാമോ?

MR. N. V. JOSEPH (*Parur*) : I know of instances of Police Sub-Inspectors being appointed as acting Magistrates. Sir, I am a witness to one particular instance. There were two wings for the building in which the Office of the Stationary Magistrate of Alwaye was located. One was used as Stationary Magistrate's Court and the other as Police Station. Once, when the Magistrate was holding his court, the Police

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. N. V. Joseph.]

Commissioner happened to go to the other wing. Then I did not know whether the Magistrate was standing or sitting on his chair. He was always looking at the Police Commissioner. So, what I say is that one can more or less understand what the mentality of the Magistrate will be whenever Police cases come up before him.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): May I know whether the member has been in the Police Department himself?

MR. N. V. JOSEPH (*Parur*): Yes (*Laughter*). That is the very reason why I urge it more emphatically.

MR T. J. MATTHEW (*Changanachery* cum *Peermade*): Has the member any objection to the recruitment being made from the bar? (*Laughter*).

MR. N. V. JOSEPH (*Parur*): If recruitment is made from the bar, there may be Magistrates who may be well versed in the practice of Vakils also. In ordinary criminal cases, I think the presumption is that the innocence of the accused must be presumed. But when cases are charged by the Police, I think the presumption must be double. Under such circumstances, if Magistrates are to be appointed from the Police Department, I think there will be no safety for the people.

MR. A. K. PILLAI (*Karunagapalli*): Sir, I rise to support the motion. I am not here to ask for a Magistrate's court for my constituency; but I do really think that the Government can sanction it, for the very elementary duty of Government is to preserve peace and order, and this duty is becoming imperative on the part of the Government with the rapid growth of criminality in the State. As I have pointed out in my budget speech, if this vicious policy of Government is continued with regard to this matter, they are only creating more criminals in the State. I do not blame the Government, but the result is there. Therefore, the imperative duty on the part of Government is to safeguard the life and property of the sober element in the State. Therefore, it is all the more necessary, and it is the elementary duty of any Government to preserve peace and order in the State, and it is the only duty of Government, by giving more and more Police and Magistrates.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, I beg leave of the House to use this opportunity to urge the claims of Tiruvalla for a Magistrate's Court. There had been a Magistrate's Court there from time immemorial, if I may say so. Unfortunately during recent times, to the consternation of the people there, the Magistrate's Court was removed. If only the authorities had known the locality properly, they would have come to the conclusion that a Magistrate's Court there was an absolute necessity. Now there is a Magistrate's Court at Chengannur which does not at all satisfy the needs of the outlying portions of the Tiruvalla Taluk.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): May I ask what the distance is between Tiruvalla and Chengannur?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): The distance between the Magistrate's Court at Chengannur and Tiruvalla is not very great.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, the member has not answered the question.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I cannot now give the exact distance.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Is it only four miles?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Somewhere about it. I was speaking of the requirements of the outlying portions of the taluk such as Meppra, Karakal, Niranam, and other water-logged places. Therefore, if the authorities only understood the lie of the land and that these places are also populous, this thing would not have been done. I do not think that there is no work for the Magistrate at Chengannur. That is a different matter. Even if his jurisdiction over Tiruvalla is taken away from him, there is ample work for him. My only request is that the old Magistrate's Court at Tiruvella should be restored as soon as possible.

I would also say a word about the salary now attached to the posts of Magistrates. I think it was repeatedly urged in this House in its previous sessions that the prospects and pay of Magistrates are very unsatisfactory. I think the President of the Council as well as several other members admitted that their position should be considerably improved so that we may be able to attract a higher type of men to the Magistracy. I should also urge upon the attention of the House the desirability of appointing a large number of Magistrates from the ranks of the legal profession because that would be a very great improvement.

MR. C. P. TARAKAN (*Kunnatnad*): അഞ്ഞൂറുരൂപാ പേഴ്സനൽ അലവൻസ് മുതൽ 'ൻ o o രൂപാ ശമ്പളം വാങ്ങുന്ന ഹൈക്കോടതി ജഡ്ജിമാരുടെ ഉദ്യോഗംവരെ ഓരോന്നും വെട്ടിക്കുറയ്ക്കണമെന്നുള്ള അഭിപ്രായത്തെ വളരെ ഉത്സാഹപൂർവം കൊണ്ടുവന്ന ഈ ഭാഗത്തെ സാമാജികന്മാരിൽ പലരും മജിസ്ട്രേട്ടന്മാരെ ധാരാളം വർദ്ധിപ്പിക്കണമെന്ന് പറയുന്നതായി എനിക്കു വളരെ നേരമ്പോക്കുതോന്നുന്നു. മുൻകാലത്തു തിരുവിതാംകൂറിൽ ഉണ്ടായിരുന്ന മജിസ്ട്രേട്ടന്മാരെ എല്ലാം വീണ്ടും ഏർപ്പെടുത്തുന്നതായാൽ ഒരു മാതിരി തൃപ്തിവരുമെന്ന് തോന്നുന്നു.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): പെരുമ്പാവൂർ ഉള്ള മജിസ്ട്രേട്ടുകോടതിയെ എടുത്തുകളയുന്നതിനു മെംബർക്കു് സമ്മതമുണ്ടോ?

MR. C. P. TARAKAN (*Kunnatnad*): പെരുമ്പാവൂർ ഇപ്പോൾ രണ്ടാം ക്ലാസ് മജിസ്ട്രേട്ടുകോടതിയില്ലാ.

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MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): ഇപ്പോഴുള്ള മജിസ്ട്രേട്ടുകോടതിയെ എടുത്തുകളയുന്നതിനു സമ്മതമുണ്ടോ?

MR. C. P. TARAKAN (*Kunnatnad*): ആലുവായിലെ കോടതികൊണ്ടു് ഇപ്പോൾ ധാരാളം ആവശ്യങ്ങൾ നടക്കുന്നുണ്ടു്.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): അതു് എടുത്തുകളയാൻ സമ്മതമാണോ?

MR. C. P. TARAKAN (*Kunnatnad*): പറവൂരെയും ആലുവായിലെയും കുന്നത്തുനാട്ടിലെയും കോടതികൾക്കു പകരം ഇപ്പോൾ ആലുവായിൽ ഒരു കോടതിമാത്രമെ ഉള്ളൂ. അതും എടുത്തു കളയുന്നതു് കൊള്ളാമെന്നു് ഗവർണ്മെൻറിനു് ബോദ്ധ്യപ്പെടുകയാണെങ്കിൽ എടുത്തുകളയുന്നതിനു് എനിക്കു് വിരോധമില്ലാ. ആലുവാ മജിസ്ട്രേട്ടുകോടതി എടുക്കുന്നതുകൊണ്ടു് അവിടെ നടക്കുന്ന കേസുകൾ മറ്റു കോടതികളിൽ എല്പിക്കുന്നപക്ഷം നിശ്ചയമായിട്ടും കേസുകൾ കുടിശ്ശികവരും. കേസുകൾ കുടിശ്ശികവരാതിരിക്കുന്നപക്ഷം എടുത്തുകളയുന്നതിനു് എനിക്കു് വിരോധമില്ലാ. ഏതെങ്കിലും ഒരു കോടതിയിൽ കേസ്സുകൾ കുടിശ്ശികവരികയും പുതിയ ഒരു കോടതിയുടെ ആവശ്യമുണ്ടെന്നു് ഗവർണ്മെൻറിനു് ബോധപ്പെടുകയും ചെയ്യാതെ ഓരോരുത്തരുടെ മുറയ്ക്കു് കോടതിവേണമെന്നു് പറയുന്നതനുസരിച്ചു് കോടതികൾ അനുവദിച്ചുകൊടുക്കുകയാണു്.

മജിസ്ട്രേട്ടുദ്യോഗത്തിനുള്ള ആളുകളുടെ നിയമനത്തെ സംബന്ധിച്ചു് അതു് പോലീസിലുള്ള ആളുകൾക്കു് കൊടുക്കരുതെന്നു് ഞാനും അപേക്ഷിക്കുന്നു. പോലീസുദ്യോഗസ്ഥന്മാരെ മജിസ്ട്രേട്ടന്മാരാക്കുന്നതു് മൂലം പലദോഷങ്ങളും ഉണ്ടാകുന്നതാണു് എന്നുള്ളതിനു് എനിക്കു് പലേ അനുഭവങ്ങളും ഉണ്ടു്. അതിനാൽ മജിസ്ട്രേട്ടന്മാരുടെ നിയമനം അധികവും വക്കീലന്മാരുടെ ഇടയിൽനിന്നു ആയിരിക്കണമെന്നുള്ള മിസ്റ്റർ ജോസഫിൻെറ അഭിപ്രായത്തോടു് ഞാൻ യോജിക്കുന്നു.

MR. TARIATU KUNJITOMMAN (*Muvattupuzha cum Todupuzha*): മജിസ്ട്രേട്ടുകോടതികളുടെ സംഖ്യ ക്രമത്തിലധികം വർദ്ധിക്കുന്നതു് കൃഷിക്കാരായ സാമാന്യജനങ്ങളുടെ ഇടയിൽ വല്ല ചില്ലറ വഴക്കും ഉണ്ടായാൽ ഉടനെ കോടതിയിൽപോയി വ്യവഹാരം കൊടുത്തു് തൊഴിൽ ഉപേക്ഷിച്ചു് ധനനഷ്ടവും സഹിച്ചു നടക്കേണ്ടതിനു കാരണമാകും. വ്യവഹാരങ്ങൾ

LIBRARY ARCHIVES Kerala Legislative Assembly

ദിവസേന വർദ്ധിച്ചുകൊണ്ടാണിരിക്കുന്നത്. ക്രിമിനൽ കോടതികളും വക്കീലന്മാരും വർദ്ധിക്കുന്നതുകൊണ്ടു ചില ഗുണങ്ങളുണ്ടെങ്കിലും ഒവ്വുവ ഹാരങ്ങളും വർദ്ധിക്കുമെന്നൊരു വലിയ ദോഷമുണ്ട്. കൃഷിക്കാരായ സാധുക്കൾക്ക് ഇപ്പോൾ മിക്കവാറും കൃഷിയിൽനിന്നുള്ള ആദായം കുറഞ്ഞുകുറഞ്ഞു വരികയാണ്. എന്നാൽ അതിൽനിന്നു വ്യവഹാരകാര്യത്തിലേക്ക് ചിലവുചെയ്യുന്ന പണത്തിന്റെ തുക കുറയ്ക്കാനല്ലാതെ കൂട്ടാൻ അധിക സൌകര്യങ്ങൾ ഉണ്ടാകുന്നതു അത്ര നന്നല്ല. മേല്പറഞ്ഞതിൽ നിന്നും മജിസ്ട്രേട്ടുകോടതികൾ അത്യാവശ്യം വേണ്ട സ്ഥലത്തും കൊടുത്തുകൂടാ എന്ന് എനിക്കു അഭിപ്രായം ഉള്ളതായി ആരും തെറ്റിദ്ധരിക്കേണ്ട. നല്ലവണ്ണം അന്വേഷണം നടത്തിയശേഷം ആവശ്യം ഒഴിച്ചു വയ്ക്കത്തക്കതല്ലെന്നു കാണുന്നസ്ഥലത്തുമാത്രമേ ഇനി കോടതി കൊടുക്കാവൂ.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : മെമ്പറുടെ നിയോജകമണ്ഡലമായ മൂവാറ്റുപുഴതാലൂക്കിൽ ഒരു മജിസ്ട്രേട്ടുകോടതി ഉണ്ടോ?

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*) : ഒന്നര ലക്ഷത്തോളം ജനങ്ങളുള്ളതായ മൂവാറ്റുപുഴതാലൂക്കിൽ ഒരു മജിസ്ട്രേട്ടുകോടതി മാത്രമേ ഉള്ളൂ. (ചിരി.)

MR. C. P. TARAKAN (*Kunnatnad*) : മൂവാറ്റുപുഴ മുതലായതാലൂക്കുകളിൽ അധികം കേസില്ലാതാകുന്നപക്ഷം അതു് എടുത്തുകളയുന്നതിൽ വിരോധം ഉണ്ടോ?

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*): ഇപ്പോൾ വളരെ കേസുകൾ ഉണ്ട്. കേസുകൾ വളരെ കുറവാണെന്നു കാണുന്നകാലത്തു അതു എടുത്തുകളയുന്നതിൽ വിരോധം ഇല്ലാ.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അവിടെ മുൻസിഫ്കോടതി ഉണ്ടോ?

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*) : ഉണ്ട്.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : എത്ര മുൻസിപ്പന്മാരുണ്ട്?

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*) : രണ്ടു മുൻസിപ്പന്മാരുണ്ട്.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അതിൽ ഒരാളെ എടുത്തുകളയുന്നതുകൊണ്ടു വിരോധമുണ്ടോ?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*): തൊടുപുഴക്കും മൂവാറ്റുപുഴക്കും ക്രൂടിയാണ് മൂവാറ്റുപുഴയുള്ള മുൻസിപ്പന്മാർ. അതിൽ ഒരാളെ തൊടുപുഴെ ആക്കുന്നതിൽ വിരോധമില്ലാ. തൊടുപുഴെ ഒന്നു അത്യാവശ്യമാണ്. മജിസ്ട്രേട്ടന്മാരായി യോഗ്യന്മാരെ തിരിഞ്ഞെടുത്തു് നിയമിക്കേണ്ടതാണ്. പോലീസ്, എക്സൈസ്, ഫാറസ്റ്റ് മുതലായ ഡിപ്പാർട്ടുമെൻറുദ്യോഗസ്ഥന്മാരാൽ ചാർജ്ജുചെയ്യുന്ന കേസുകളിൽ മറ്റു കേസുകളിൽനിന്നും വ്യത്യസ്തമായ നിലയിൽ അനുവർത്തിക്കണമെന്നു് മജിസ്ട്രേട്ടകോടതികളോടു് ഗവർണ്മെൻറ് ചട്ടംകെട്ടീട്ടുണ്ടോ എന്നു് ഒരു ശങ്ക ജനങ്ങൾക്കു് ജനിച്ചുകൊണ്ടിരിക്കുന്നു. ഈ ശങ്കയെ ഇല്ലാതാക്കേണ്ടതു് ഗവർണ്മെൻറിൻെറ കടമയാണ്. ഫാറസ്റ്റ് റെയിഞ്ചർമാരും എക്സൈസ് ഇൻസ്പെക്ടറന്മാരും ചാർജ ചെയ്യുന്ന കേസുകളിൽ തെളിവ് എങ്ങിനെ ഇരുന്നാലും ശിക്ഷയാണ് ഫലമെന്നു ജനങ്ങൾക്കു സാധാരണ ബോധമുണ്ടു്. ഒരാൾ മറെറാരാളുടെ പേരിൽ കേസ്കൊടുത്താൽ തെളിവുണ്ടെങ്കിൽ മാത്രമേ ശിക്ഷ ഉള്ളൂ എന്നൊരു സമാധാനം ഉണ്ടു്. ഫാറസ്റ്റ് ഗാർഡുകാർ, എക്സൈസ് ശിപായിമാർ ഇവർ മാന്യനായ ഒരാളിനെ കേസിലാക്കും എന്നുപറഞ്ഞാൽ അപ്പോൾ ഭയപ്പെട്ടു് ആ ചില്ലറ ഉദ്യോഗസ്ഥന്മാരുടെ കാല്ക്കൽവീണു് അയാൾ ചോദിക്കുന്ന തുക കൊടുക്കാൻ ഇടയാകുന്നു (ചിരി). ഈ തരം കേസുകൾ കീഴ്കോടതിയിൽ ശിക്ഷിച്ചാൽ അപ്പീലിലും ശരിവെച്ചുപോകും. ശിക്ഷിച്ചില്ലെങ്കിൽ മജിസ്ട്രേട്ടന്മാർ ധർമ്മസങ്കടത്തിലാകും. അതായതു് ഡിപ്പാർട്ടുമെൻറദ്ധ്യക്ഷന്മാർ ഗവർണ്മെൻറിലേക്കു് എഴുതി മജിസ്ട്രേട്ടിൻെറ കയറ്റം തടയുകയൊ മറേറതെങ്കിലും വിധത്തിൽ കഷ്ടത ഉണ്ടാക്കുകയൊ ചെയ്യും. ഈ സ്ഥിതി വളരെ കഷ്ടതരമാണ്. ഇപ്പോൾ ഇങ്ങനെയുള്ള സംഭവങ്ങൾനാൾക്കുനാൾ വർദ്ധിച്ചുവരുന്നു എന്നാണ് പൊതുജനാഭിപ്രായം. ഇങ്ങിനെ കേസുകൾ തെളിവുക്രൂടാതെ ശിക്ഷിക്കുന്നതു പ്രസ്തുത ഡിപ്പാർട്ടുമെൻറുകാക്കു് അഴിമതി നടത്താൻ നല്ല സൌകര്യമായിതീർന്നിരിക്കുന്നു.

മജിസ്ട്രേട്ടന്മാരെ അധികവും വക്കീലന്മാരിൽനിന്നും എടുക്കണമെന്നാണ് എൻേറയും അഭിപ്രായം. മൂവാറ്റുപുഴ ഒരു രണ്ടാംക്ലാസ മജിസ്ട്രേട്ട് അത്യാവശ്യമണ്. ഇപ്പോഴുള്ള മജിസ്ട്രേട്ടിനു രണ്ടാംക്ലാസ് അധികാരമേയുള്ളൂ. (ചിരി). ഇപ്പോഴത്തെ മൂന്നാംക്ലാസ്മജിസ്ട്രേട്ടിനു് രണ്ടാംക്ലാസ് മജിസ്ട്രേട്ടിൻെറ അധികാരംക്രൂടി കൊടുക്കയൊ അല്ലെങ്കിൽ രണ്ടാംക്ലാസ് മജിസ്ട്രേട്ടധികാരമുള്ള ആളെ മാറ്റി നിയമിക്കയോ ചെയ്താൽ മതി. പുതുതായിട്ടു ഒരാൾക്രൂടി വേണമെന്നു് പറയുന്നില്ലാ ഇതു് താലൂക്കു നിവാസികൾക്കു പൊതുവിൽ താല്പര്യമുള്ള കാര്യമാണ്.

LIBRARY ARCHIVES Kerala Legislative Assembly

The Council adjourned for lunch at 2-17 P. M. and re-assembled at 3-10 P. M.

MEMBERS ELECTED TO SIT ON THE STANDING FINANCE COMMITTEE AND THE LAND RECORDS MAINTENANCE COMMITTEE.

PRESIDENT: Under the presidency of the Deputy President, the non-official members of the Council have elected the following gentlemen to the Finance Committee:—

(1) Mr. Changanachery K. Paramesvaran Pillai.

(2) Mr. G. Paramesvaran Pillai.

(3) Mr. N. V. Joseph.

The following members have been elected to the Land Records Maintenance Committee:—

(1) Mr. K. K. Thomas.

(2) Mr. T. Kumara Pillai.

(3) Mr. Kallur Narayana Pillai.

We will have the 35 minutes of Saturday's sitting after we conclude to-day's time. For this demand, we have got 10 minutes more.

DEMAND IX—ADMINISTRATION OF JUSTICE (*contd.*)

Motion 110 (contd.)

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Sir, the people of Kunnattur taluk are very anxious to have their court back.

PRESIDENT: I know that, Mr. Kochukunju Pillai. I have received several petitions on the subject.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunattur*): I only request that their claims may also be considered when the question is considered by Government.

PRESIDENT: You may rest assured that they will all come up. Some of them based their claims on the amount of criminality they have.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, the motion under discussion deals with two questions. The first is the establishment of criminal courts and the second the purity of administration of criminal justice. Sir, with regard to the establishment of courts in different parts of the State, I may also bring to the notice of Government that Changanachery, which is a thickly populated town in the State, has been for a long time without a Magistrate's Court. The people there have to go a distance of about 12 miles to get justice. I therefore bring to the notice of Government the necessity of establishing a Magistrate's Court there.

As regards the second point, I would submit it is a matter of great importance and of general application. With regard to the purity and efficiency of criminal administration, what I want to bring to the notice

LIBRARY ARCHIVES Kerala Legislative Assembly

of Government is that in this matter also there must be more recruitment from the bar. I have yet to know of instances in which Governments have appointed members of the bar as Magistrates.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): There is one such instance, I think.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): With regard to recruitment of Munsiffs, there has been an understanding that 50 per cent. of them must be appointed from the members of the bar. But with regard to Magistrates, there has been no such understanding. The present practice is to appoint straightway clerks of the Secretariat and Account Office or of the District Magistrates' courts as Magistrates. The Magistrates are the custodians of peace of the country; they also are the persons who have the right to interfere with the freedom of persons. Therefore, it is of very great importance in the case of administration of criminal justice that very efficient hands must be found. In supporting the motion, I urge this point also upon the attention of Government.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Sir, several friends here were suggesting about the need of establishing more criminal courts in the State.

I, personally, am of opinion, that the ideal of this Government should be to reduce the number of criminal courts as far as possible. We are spending lakhs and lakhs of rupees on Education, Police and on the Magistracy. By means of proper education, we must be able to change the mentality of the people—

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അങ്ങനെയുള്ള ഒരു വിദ്യാഭ്യാസം രാജ്യമൊട്ടുക്കുമുള്ളതായി പറയാമോ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): ഉണ്ടാക്കുവാൻ സാധിക്കുമെന്നാണ് എന്റെ അഭിപ്രായം.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഡിപ്പാർട്ടുമെന്റൽ പ്രൈമറിസ്കൂളുകളും ഇല്ലാത്തതായ പകുതികളും ഈ രാജ്യത്തു് എത്രയുണ്ടെന്നു് അറിയാമോ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): ഡിപ്പാർട്ടുമെന്റൽ പ്രൈമറിസ്കൂളുകളില്ലാത്ത പകുതികളെ സംബന്ധിച്ചെനിക്കറിയാൻ പാടില്ല. എങ്കിലും എല്ലാസ്ഥലത്തിലും പ്രൈവറ്റ് ഏജൻസി നടത്തുന്ന പള്ളിക്കൂടങ്ങളെങ്കിലും ഉള്ളതായി എനിക്കറിയാം.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): May I know from Mr. Joseph whether the education in Minachil taluk has sufficiently advanced to permit of the abolition of the Magistrate's Court there?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): As regards the Minachil taluk, I may say that there was need for a First Class Magistrate's Court a few years ago. But at present there is no necessity for a First Class Magistrate's Court—

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*: Does the member mean to say that after a few years the Magistrate's Court at Minachil may be aboiished ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Yes, after some years. What I say is that we should be able to gradually reduce the number of criminal courts in the State by means of proper education.

MR. N. KUMARAN (*Nominated*): May I know whether the member's view is that, when we have cent. per cent. education, we will be able to abolish all the criminal courts ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): We can reasonably hope to do so by means of proper education.

MR. N. KUMARAN (*Nominated*): Does the member know of any country where there is good education and where there are no criminal courts ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Yes; surely, by means of proper education, we can expect such a state of affairs.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഏതെങ്കിലും ഒരു രാജ്യത്തു അങ്ങനെയുള്ള ഒരു വിദ്യാഭ്യാസം കിട്ടിവരികയും ക്രിമിനൽ കോടതികൾ ഇല്ലാതാകയും ചെയ്തിട്ടുള്ളതായി അറിയാമോ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): ഇപ്പോഴത്തെ സ്ഥിതിക്കു അങ്ങനെ ഒരു രാജ്യത്തിൽ ഉണ്ടെന്നു പറയുവാൻ തയ്യാറില്ല. പക്ഷെ വിദ്യാഭ്യാസം വേണ്ട പോലിസി അനുസരിച്ചു നടത്തുക എന്നതു സാധിക്കാവുന്ന ഒരു സംഗതിയാണ്.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): മറ്റുരാജ്യങ്ങളിലുള്ളതുപോലെ ഈ സംഗതിയിൽ നമുക്കും അനുകരിയ്ക്കയല്ലെ വേണ്ടതു ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): ഏതെങ്കിലും രാജ്യത്തുള്ളതുപോലെ മാത്രമേ നമുക്കും ആശിക്കാവൂയെന്നു ഞാൻ പറയുന്നില്ല. നമ്മുടെ രാജ്യം ഏതിനെ അനുസരിച്ചിരിക്കുന്നുവോ, അതിനനുസരണമായ വിധത്തിൽ ഉള്ള ഫലങ്ങൾ നമുക്ക് ആശിക്കാവുന്നതാണ്.

MR. N. V. JOSEPH (*Parur*): In how many centuries can we expect to realise that ?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): What I say is that we should try to reduce the number of criminal courts. I cannot say the number of years in which we can do that.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. K. THOMAS (*Kottayam*): May I know if the member is aware of a graduate being recently entertained in the tiled building at Poojapurai?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It may be so. It is due to the defects in the present policy of education. A graduate-in-law or a Master of Arts may be in jail.

MR. W. H. PITT (*Commissioner of Police*): May I ask if he is aware that, among the various illiterate hill-tribes in India, there is practically no crime?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It may be so.

MR. K. K. THOMAS (*Kottayam*): Is Mr. Pitt aware that the Salvation Army—

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): The member is out of order. He cannot put any question to Mr. Pitt because he is not in possession of the House.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): After many years at least, it will be possible to reduce the number of criminal courts, though not to abolish them completely.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is crime the result of want of education alone?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It is the result also of want of proper education.

MR. N. KUMARAN (*Nominated*): Is such education available in Travancore?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I do not know. I say, in the matter of establishing new criminal courts the Government should see very carefully whether a Magistrate's Court is necessary or not. Unless it is absolutely necessary, a new court should not be instituted anywhere. If the Government, after considering all the circumstances, finds it absolutely necessary, then new courts may be established.

As regards the matter of recruitment of Magistrates from the bar, what I have to say is that the present-day Magistrates do not act with a judicial temperament but with an executive temperament. It is necessary for the proper administration of justice that persons with a judicial temperament should be appointed as Magistrates. So far as that matter is concerned, I would agree with Mr. Matthew that members of the bar may with advantage be recruited as Magistrates. I do not myself wish to suggest this because I am also a practising vakil.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): May we take it that all vakils have the judicial temperament?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I do not say that. I only say that the appointment of clerks alone as magistrates is not good. What I say is that vakils will have more of the judicial temperament than clerks.

MR. N. V. JOSEPH (*Parur*): Does the member say that the Magistrates will be wholly devoid of the executive temperament if they are recruited from the bar?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I do not say that. No man in the world will be wholly devoid of executive capacity.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Since no member is coming forth, I may add a few words. With respect to the observation that, with the spread of education, we may do away with Magistrates' courts, I may say that it is more a hope than an idea that would be realised. For, if that were a fact, some of the western countries would long long ago have ceased to have Magistrates' courts.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Does he mean to say that western countries are really educated?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What we people understand by education is the western system of education. We think that western countries are much more advanced in education than we are. In view of that fact, I am observing that if the spread of education goes hand in hand with the reduction of or dispensing with the Magistrates' courts, that ought to have been achieved in western countries. Unfortunately that is not seen to be the case. On the other hand, once upon a time, while we were not civilised, or were only in a half-civilised condition, we were getting on without Magistrates' courts. It was only the increase of civilisation that tempted us to go in for Magistrates' courts; and the chances are that, with the advance of civilisation, there will be an increase of Magistrates' courts. For with the advance of civilisation, crimes show no tendency to decrease. The clumsy misdeeds we hear of in the streets may disappear, but the refined methods of the civilised criminal will come into existence. So much so, I would again refer to Mr. Pitt who, in the annual report which he submitted to Government on the administration of his Department, sets it down, I fear on a wrong parallel, that the percentage of detection though it has gone down need not give room to any alarm. He quotes as his illustration the Metropolitan Police in London. I must say that the example of the Metropolitan Police does not apply here. For the Metropolitan Police in London are dealing with criminals of a very high order.

MR. W. H. PITT (*Commissioner of Police*): I was referring in the report only to cases of burglary in London.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Well, with respect to burglary, if you are to believe the reports in English newspapers, you will find that it is rather difficult to detect. But that is not a ground for Mr. Pitt to say that the low percentage of detection in Travancore is

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai]

a ground for no alarm. On the other hand, I would submit that such a theory, if endorsed by the Government, will be a very dangerous theory. Therefore the attempt ought to be to furnish magisterial assistance in centres which stand in need of such assistance. In the recent re-organisation of the Magisterial courts, consequent upon the separation of Devaswoms from the Revenue Department, much attention does not appear to have been devoted to that aspect of the problem. So much with respect to Magistrates' courts called for in various centres.

With respect to recruitment of Magistrates from the bar, I may mention one or two cases, which I hope will carry conviction, as to the inefficiency of the Magistrates now administering criminal justice. One Magistrate says that he dealt with a case in ignorance of the law and the regulation bearing upon the case. For he never knew that such a regulation existed. Now ignorance of law, so far as the subject is concerned, is no plea at all. But when it comes to the question of a Magistrate, ignorance of law is paraded as an excuse! In another case which I heard being argued the other day in the High Court, the only question was whether there was an assault or not. The Magistrate came to the wildly irrelevant conclusion that the complainant was not in possession of a particular property and dismissed the case. What was the relation between the two, the Magistrate did not care to consider. Such are some of the pronouncements of the Magistrates! It is therefore necessary that the Government should bestow some attention on the recruitment to the Magisterial rank and, in the absence of a better scheme, I would say that the recruitment of decent practitioners from the bar should be preferred to the method of recruiting from clerks.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : മജിസ്ട്രേട്ട കോടതികളെ പരിഷ്കാരത്തിൽ കുറവുചെയ്തിട്ട് ഇപ്പോൾ രണ്ടു വർഷമേ കഴിഞ്ഞിട്ടുള്ളു എന്നും ആ കാലത്തു കോടതികൾ കുറയ്ക്കുന്നതിനെപ്പറ്റിയുള്ള ഗവർണ്മെൻറിൻെറ അഭിപ്രായത്തെ പരസ്യപ്പെടുത്തുകയും ജനങ്ങളുടെ അഭിപ്രായം വരുത്തുകയും ചെയ്യാഎന്നും അതിൽ പലഹർജികളും വന്നിട്ടുണ്ടെന്നും അതുകളെ എല്ലാം വേണ്ടപോലെ പഠിച്ചാലോചിച്ചാണ് മജിസ്ട്രേട്ടകോടതികൾ കുറച്ചിട്ടുള്ളതെന്നും ലാമെമ്പർപറയുകയുണ്ടായി. മജിസ്ട്രേട്ടകോടതികളെ സംബന്ധിച്ചു ഇടകാലത്തു നടത്തിയ പരിഷ്കാരത്തിൽ ഗവർണ്മെൻറിൻെറ അഭിപ്രായഗതികളെ വ്യതിചലിപ്പിയ്ക്കുന്നതിനു ജനങ്ങളുടെ ഹർജികൾക്കും അവരുടെ സങ്കടങ്ങൾക്കും ശക്തിയില്ലായിരുന്നു. അവ വെറും വനരോദനമായി പരിണമിച്ചതല്ലാതെ ഒരുഫലവും ഉണ്ടായില്ല. അതിനാൽ ജനങ്ങളോടു ആലോചിച്ചിട്ടാണ് ചെയ്തതെന്നുള്ള സമാധാനം ഒരിക്കലും നിലനിൽക്കുന്നതല്ല. ഒരു

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മജിസ്ട്രേട്ടുകോടതിയുടെ ആവശ്യമുണ്ടെന്നു ഗവർണ്മെൻറിനു ബോദ്ധ്യം വന്നാൽ അവിടെ മജിസ്ട്രേട്ടുകോടതി ഏർപ്പെടുത്തുമെന്നാണ് മറെറാരു സമാധാനംപറഞ്ഞിട്ടുള്ളത്. ഗവർണ്മെൻറിനെ ബോദ്ധ്യപ്പെടുത്തേണ്ട വഴികൾ എങ്ങിനേയാണെന്നുള്ളത് മനസ്സിലാക്കാൻ വിഷമമായിരിക്കുന്നു.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara cum Kunnattur*): മജിസ്ട്രേട്ടുകോടതിയില്ലാത്ത സ്ഥലത്തു തഹശീൽദാക്ക് മജിസ്ട്രേട്ടിൻെറ അധികാരം കൂടികൊടുത്താൽ പോരേ?

MR. T. KUMARA PILLAI (*Kalkulam cum Vilavankod*): അങ്ങനെകൊടുക്കുന്നതിൽ യാതൊരാക്ഷേപവുമില്ല. തഹശീൽദാക്കു കൊടുത്താലും മുൻസീഫിനു കൊടുത്താലും എനിക്കു ഒരു വിരോധവുമില്ല. സാധുക്കൾക്കു ന്യായം കിട്ടുന്നതിനു സൌകര്യമുണ്ടായിരിക്കണമെന്നേയുള്ളൂ. അതായതു പണവും സ്വാധീനവും ഉള്ളവക്കു സാധുക്കളെ ഉപദ്രവിക്കാൻ ഇടകൊടുക്കരുതെന്നുമാത്രമേ എനിക്കഭിപ്രായമുള്ളൂ.

എൻെറ സ്നേഹിതൻ മിസ്റ്റർ ശിവതാണുപിള്ള ഒരഭിപ്രായം പറഞ്ഞിട്ടുള്ളതു പത്മനാഭപുരത്തുള്ള ഡിവിഷൻ അസിസ്റ്റൻറിനെ കോട്ടാറുമാററി അവിടെയുള്ള 2-ാം ക്ലാസ്സ് മജിസ്ട്രേട്ടുകോടതിയെ ഇങ്ങോട്ടു മാററണമെന്നാണ്. പത്മനാഭപുരത്തുള്ള മജിസ്ട്രേട്ടുകോടതിയെയെപ്പററി ഞാൻ ഒന്നും പറഞ്ഞിട്ടില്ല. അഞ്ചുനാഴികദൂരെയുള്ള തിരുവട്ടാറാണ് ഒരു മജിസ്ട്രേട്ടുകോടതി വേണമെന്നു പറഞ്ഞിട്ടുള്ളതു്. അതിനാൽ ഈ രണ്ടു കാര്യങ്ങൾക്കും തമ്മിൽ ഒരു സംബന്ധവും ഇല്ലാത്തതാകുന്നു.

മജിസ്ട്രേട്ടന്മാരായി നിയമിക്കുന്നതിനെ സംബന്ധിച്ചു പോലീസ്ഡിപ്പാർട്ടുമെൻറിൽ നിന്നും ആളെ എടുക്കാൻ പാടില്ലെന്നുള്ള അഭിപ്രായം എനിക്കില്ല. പോലീസിൽനിന്നു എടുക്കുന്ന ആളുകൾ എല്ലാവരും ചീത്തയായിപോകുമെന്നു വിചാരിയ്ക്കാൻ അവകാശമില്ലാത്തതാണ്. ഏതു ഡിപ്പാർട്ടുമെൻറിൽനിന്നും ആളുകളെ എടുത്താലും ചീത്തയാകുന്നയാൾ ചീത്തയാകതന്നെചെയ്യും. വക്കീലന്മാരുടെയിടയിൽ നിന്നും ഉദ്യോഗങ്ങൾക്കു നിയമിച്ചിട്ടുള്ള പലരും ചീത്തയായിട്ടുണ്ടു്. പോലീസ്ഡിപ്പാർട്ടുമെൻറിൽ ഉള്ളവക്കാർക്കു ഹൃദയമില്ലെന്നു പറയുന്നതു ഒരിയ്ക്കലും ശരിയല്ല.

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MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : വക്കീലന്മാരിൽനിന്നും വല്ലവരേയും മജിസ്ട്രേട്ടന്മാരായി എടുത്തു മോശപ്പെട്ടതായിഅറിയാമോ?

MR. T. KUMARA PILLAI (*Kalkulm* cum *Vilavankod*): ധാരാളം ഉണ്ട്.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : പേർ പറയാമോ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഒരു വിഷമവുമില്ല. പക്ഷേ സത്യം പറയുന്നതായാൽ ഞാൻ സാക്ഷി ക്കൂട്ടിൽ കയറേണ്ടതായിവരും. ആ വിഷമത്തെ വിചാരിച്ചു ഞാൻ പേരുകളെ പറയുന്നില്ല. (ചിരി.)

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : ആരെയെങ്കിലും അറിയാമോ എന്നറിഞ്ഞാൽ മതി.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : എനിക്കു ധാരാളമായി അറിയാം.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : വക്കീലന്മാരിൽനിന്നും മജിസ്ട്രേട്ടായി എടുത്തിട്ടുള്ളതിൽ ആരെയെങ്കിലും അറിയാമോ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): എന്റെ ഇതുവരെയുള്ള സംസാരം കൊണ്ട് എനിക്കറിയാമെന്നു മെമ്പർക്ക് മനസ്സിലായില്ലെങ്കിൽ കഷ്ടമാണ്.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): അറിഞ്ഞുകൂടാ എന്നാണ് എന്റെ അഭിപ്രായം. വക്കീലന്മാരിൽ നിന്നും നേരിട്ടു ഇതേവരെ ആരേയും തിരുവിതാംകൂറിൽ മജിസ്ട്രേട്ടന്മാരായി നിയമിച്ചിട്ടില്ലെന്നുള്ള വസ്തുത അറിയാമോ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : അറിഞ്ഞുകൂടെങ്കിൽ അതിലേയ്ക്ക് ഞാൻ പ്രേരിപ്പിയ്ക്കുന്നില്ല.

MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*): അങ്ങനെ ആക്കീട്ടുള്ള സ്ഥിതിക്ക് അവരുടെ പേർ പറയാമോ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavnnkod*) : വക്കീലന്മാരായിരുന്ന വേറെജോലിയിൽ പ്രവേശിച്ച പിന്നീട് മജിസ്ട്രേട്ടായി വന്നിട്ട

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ള്ളവരും ധാരാളം ഉണ്ട്. ആദ്യം വക്കീലായിരിക്കും പിന്നെ ഉദ്യോഗങ്ങളിൽ പ്രവേശിക്കും.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): അങ്ങനേയും ആളില്ല.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഉണ്ടാകും.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): ഉണ്ടാകുമായിരിക്കാം.

MR. N. V. JOSEPH (*Parur*): പോലീസ് ഡിപ്പാർട്ടുമെൻറിൽ ആക്ടിംഗായിരുന്ന പിന്നെ മജിസ്ട്രേട്ടായി വല്ലവരും വന്നിട്ടുണ്ടോ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അതു ആളുകളുടെ സ്ഥിതിപോലെയിരിക്കും. ശരിയായി പുരുഷത്വമുള്ള ആളാണെങ്കിൽ പോലീസ്ഡിപ്പാർട്ടുമെൻറിൽ നിന്നും എടുക്കുന്നതിൽ യാതൊരാക്ഷേപവുമില്ല.

വിദ്യാഭ്യാസം വഴിച്ചുവരുംതോറും മജിസ്ട്രേട്ടുകോടതികൾ എടുത്തുകളയാമെന്നുള്ള അഭിപ്രായത്തോടു ഞാൻ ഒരിക്കലും യോജിക്കുന്നില്ല. തിരുവട്ടാർ മലയോരത്തുള്ള ഒരു സ്ഥലമാണ്. അവിടെ വിദ്യാഭ്യാസമുള്ളവർ വളരെ കുറവാണ്. പ്രാഥമിക വിദ്യാഭ്യാസം പോലും ശരിയായി അവിടെ ഇല്ലാത്തതുകൊണ്ടുള്ള വിഷമം ഇപ്പോൾ പറയേണ്ടിയിരിക്കുന്നു. എഡ്യൂക്കേഷൻ ഡിപ്പാർട്ടുമെൻറിൽനിന്നും നിയമിച്ചിട്ടുള്ള കണക്കനുസരിച്ചു വേണം പള്ളിക്കൂടം കെട്ടിടങ്ങൾകെട്ടാൻ. ഒരവസരത്തിൽ കൺസർവേറാറും ഞാനുമായി ഒരു മലയിൽ പോകാനിടയായി. അവിടെ കാണിക്കാക്കു ഒരു പ്രാഥമികവിദ്യാലയം അനുവദിച്ചിട്ടുണ്ട്. വിദ്യാഭ്യാസഡിപ്പാർട്ടുമെൻറിലെ കണക്കനുസരിച്ചു് കെട്ടിടം കെട്ടിയുണ്ടാക്കാത്തതുകൊണ്ടു് അവക്കു് പള്ളിക്കൂടം ഇല്ലാതായിരിയ്ക്കുന്നു. അങ്ങനെയുള്ള ആളുകളുടെയിടയിൽ ഇപ്പോൾ മജിസ്ട്രേട്ടുകോടതിയും ഇല്ലാതെ എങ്ങനെ സാധിയ്ക്കുമെന്നറിയുന്നില്ല. മിസ്റ്റർ ജോസഫ് അഭിപ്രായപ്പെട്ടതുപോലെ നമ്മുടെയിടയിൽ ധാരാളം വിദ്യാഭ്യാസം വഴിച്ചുവരുന്നകാലത്തു കോടതികളെ കളഞ്ഞിട്ടു ആ പണം കൃഷിസംബന്ധിച്ചോ ഇൻഡസ്ട്രി സംബന്ധിച്ചോ ഉപയോഗിക്കുന്നതിനു. ഒന്നാമതായി ഞാൻ ശിപാർശ ചെയ്യാൻ തയാറാണ്. അതുവരെ ഇന്നത്തെ സ്ഥിതികളെത്തന്നെ തുടരേണ്ടതായിരിയ്ക്കുന്നു.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Sir, the debate on this motion has been very instructive. It will be remembered that at the time of the general discussion of the budget the criticism from almost every member was that the number of officers is too many, and to-day we hear almost every member saying "I want a Magistrate", "I want a Munsiff."

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Nobody wanted a Munsiff.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I remember somebody referring to that also. Maybe I am wrong. At least they wanted Magistrate's Courts. I daresay that the members who wanted that were voicing the feelings of their constituencies.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): May I correct him? The demand was not for more Magistrates' Courts but for a better redistribution of the Magistrates.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): The members wanted more Magistrates also. I submit that if all these requests are granted, the amount spent on Magistracy will be increased. But I do not mean to say by this that these requests should be disregarded. All that I want to submit for the consideration of the House, and I hope the House will take it in good part, is that sometimes they want more officers, but sometimes when they are in a critical mood, they say that the Government are maintaining too many officers to administer the people.

MR. C. P. THOMAS (*Kottayam*): May I tell the member if more administrative officers are appointed, that may not add to the convenience of the people? But people want more Magistrates because that will add to the convenience and comforts of the people.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I do not quite see the distinction the member makes. I believe that it is taken that a medical man, a schoolmaster, and an engineer are all administrative officers. And so is a Magistrate who administers justice. These administer directly to the good of the people. Probably what the member objects to is the Revenue Officers also. I can of course understand the unpopularity of the officers who have to collect money from the people. Even accepting this distinction, I must point out that the criticism that Government spend too much on administrative officers is not quite correct. I think Mr. George pointed out that only about 17 or 18 lakhs of rupees comes to the share of this sort of administrative officers, and that a large sum of money is spent on the officers who are to serve the people directly. All that I want to point out to the House is that the criticism is very often made that there are not sufficient officers. But when provision is made for more officers, the members object to it. When on the other hand the number of officers is reduced, they are coming forward and saying, "Give us more officers". In this tangle, what are the Government to do? I think the best thing that the members can do is to leave it to the Government to decide each matter, as it comes up, as the Government think fit.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. G. RAMAN MENON (*Mavelikara* cum *Kartigapalli*): Is it not possible without increasing the general administrative expenditure that some of the officers demanded by the people can be sanctioned?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): It is not possible.

PRESIDENT: I do not think the question of any particular Magistrate comes under this motion. This is a token motion and Mr. Kumara Pillai discussed the question of policy, and, in doing so, he only quoted an illustration of the policy followed in the various departments where Government at first put in a man as acting for two or three months and then made it temporary and so on, but refused a Magistrate's Court. He merely mentioned it as an illustration. Other members all proceeded to repeat the illustration only changing the names.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): To put it succinctly they want more Magistrates' Courts.

PRESIDENT: Not even that.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഈ രാജ്യത്തുള്ള മുഴുവൻ സ്ഥിതികളെയും പരിശോധിച്ചു ജനങ്ങൾക്കു അത്യാവശ്യമായ സ്ഥലങ്ങളിൽ മജിസ്ട്രേട്ടുകോടതികൾ കൊടുക്കണമെന്നാണ് എന്റെ അഭിപ്രായം. മജിസ്ട്രേട്ടുകോടതിയില്ലാതെ ജനങ്ങൾ വളരെ സങ്കടം അനുഭവിക്കുന്നുണ്ട്. അതു ഗവർണ്മെന്റു അന്വേഷിച്ചു വേണ്ടതുപോലെ ചെയ്തുകൊടുക്കണം.

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I can certainly assure the member that the matter will engage the attention of the Government and may if necessary be re-examined in the light of the debate in this House.

There is only one other matter to which I want to make a special reference. One of the members said that the Magistrates have been instructed to convict persons charged in *Forest* and *Excise* cases. I should emphatically repudiate that suggestion. The Magistrates have got a discretion which they ought to and do exercise in every case, whether it be a *Forest* case or an *Excise* case. If probably the number of convictions is greater in the matter of *Forest* or *Excise* cases, it may be because those cases are investigated and charged by expert men who are trained in those particular departments. Apart from that, it cannot be said that there was any particular reason for the increase in the number of convictions in those cases. I am bold enough to repudiate on behalf of Government the suggestion that instructions are issued to the Magistrates in respect of these cases to enter a conviction.

MR. N. KUMARAN (*Nominated*): Is he of opinion that the Excise and Forest Officers are more expert than the Police Officers?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Probably there is no comparison between the two. The Police

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayalam Paramesvaran Pillai.]

officers are investigating cases of different sorts. The Excise Officers are investigating excise offences. The Forest Officers are investigating forest offences. So each is an expert in his own department.

MR. N. KUMARAN (*Nominated*): My question is whether the officers investigating forest cases and excise cases are more efficient from the point of view of prosecution than the police officers.

PRESIDENT: The Forest and the Excise Officers are sure of the facts connected with their department, whereas criminal cases are complicated. So it is easier to obtain conviction in forest and excise cases than in the police cases.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): എക്സൈസ് കേസുകളിൽ ചിലമജിസ്ട്രേട്ടന്മാർ ശരിയായി ശിക്ഷിയ്ക്കുന്നില്ലെന്ന കമ്മിഷണർ ഗവർൺമെൻറിലേക്കെഴുതി അയച്ചതായി അറിയാമോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I am not aware that any such communication has been sent up to Government. But I see from the blue books that the Excise Commissioner sometimes complains that sufficiently deterrent punishment is not meted out to the accused in the excise cases. He does not say that the conviction should have been entered.

MR. TARIATU KUNJITOMMAN (*Muvttupuzha* cum *Todupuzha*): ഫ്ാറസ്റ്റ് കേസുകൾ ശരിയായി മജിസ്ട്രേട്ട് ശിക്ഷിക്കുന്നില്ലെന്ന ഫ്ാറസ്റ്റ് ഡിപ്പാർട്ട്മെൻറധ്യക്ഷൻ ഗവർൺമെൻറിലേക്കെഴുതി അയച്ചതായി അറിയാമോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I do not know that.

MR. K. K. THOMAS (*Kottayam*): May I know whether a list of the Magistrates that were dealing leniently in such cases was called for?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): I am not aware.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ൻൻ-ാമാണ്ടത്തെ അഡ്മിനിസ്ട്രേഷൻ റിപ്പോർട്ടിൽ എക്സൈസ്കമ്മിഷണർ ഒരു പട്ടിക കൊടുത്തിട്ടുള്ളതിൽ ഒരുമജിസ്ട്രേട്ടിൻെറ ശിക്ഷകുറഞ്ഞു പോയതായിപറഞ്ഞിട്ടുള്ളതു ലാമെമ്പർ കണ്ടിട്ടുണ്ടോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): Probably the member is referring to the list of cases where the Magistrates did not give sufficiently deterrent punishment. It is quite likely that, since the heads of the Excise and the Forest Departments are concerned with their revenues, they may make representations that sufficiently deterrent punishment is not given.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is such an interference on the part of the Excise Commissioner or the Conservator of Forests with the discretion of the Magistrates justifiable ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): They do not interfere with the discretion of the Magistrate; Government also do not interfere.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Why did they then complain to Government?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അറിപ്പാട്ട ചെയ്തിട്ടുള്ളതു് ലാംമന്വർ കണ്ടിട്ടുണ്ടോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): They are only bringing to the notice of Government so that the Magistrate's attention may be drawn by the proper authorities.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): അതിന്റെ അത്മാവെന്താണ്? അങ്ങിനെ ഗവർൺമെൻറിലേക്കു സമർപ്പിച്ച റിപ്പോർട്ടിൽ കൂടുതൽ ശിക്ഷകൊടുക്കണമെന്നു അവരെ അറിയിക്കണമെന്നല്ലേ?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): It may be taken like that. But that does not mean that the Magistrates are not to exercise their discretion in each instance.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is it within the discretion of the Government to enhance or modify the sentences of the Magistrates?

MR. KAYALAM PARAMESVARAN PILLAI (*Ag. Additional Head Sirkar Vakil*): They will ask the Law Officer to move the High Court to give enhanced punishment and the High Court as a judicial tribunal may enhance.

MR. G. RAMAN MENON (*Mavelikara* cum *Karthikapalli*): Probably the result of all these things is to induce the Magistrates to regard such cases with special favour.

PRESIDENT: Or with disfavour.

MR. KAYALAM PARAMESVARN PILLAI (*Ag. Additional Head Sirkar Vakil*): I think that, under these circumstances, Mr. Kumara Pillai will be able to withdraw his motion.

MR. T. KUMARA PILLAI (*Kaikulam* cum *Vilavankod*): I withdraw the motion. My object is simply to bring these facts to the notice of the Government.

PRESIDENT: May I take it that the House permits the withdrawal of the motion?

The motion was, by leave, withdrawn.

PRESIDENT: The time allotted for this Demand being over, I shall put the demand to the vote of the House.

LIBRARY ARCHIVES Kerala Legislative Assembly

The following motions lapsed as the time for the demand expired:

MR. G. PARAMESVARAN PILLAI:

111. To reduce the allotment of Rs. 2,666 for Establishment by Rs. 100.

MR. T. J. MATTHEW:

112. To omit the allotment of Rs. 4,000 for Law College Hostel.

MR. K. K. THOMAS:

113. To reduce the allotment of Rs. 10,146 for Law College and Hostel by Rs. 100.

MR. G. PARAMESVARAN PILLAI:

114. To reduce the allotment of Rs. 3,664 for Establishment by Rs. 100.

MR. P. K. NARAYANA PILLAI:

115. To omit the allotment of Rs. 1,044 for temporary establishment for temporary Sirkar Vakils.

MR. C. P. THOMAS:

116. To reduce the total allotment of Rs. 7·02 lakhs under Demand IX by Rs. 100.

MR. G. PARAMESVARAN PILLAI:

117. To reduce the total allotment of Rs. 7·02 lakhs under Demand IX by Rs. 100.

MR. M. N. PILLAI:

118. To reduce the total allotment of Rs. 7·02 lakhs under Demand IX by Rs. 100.

MR. A. J. JOHN:

119. To reduce the total allotment of Rs. 7·02 lakhs under Demand IX by Rs 100.

PRESIDENT: I take it that the House votes Rs. 7·02 lakhs under Demand IX—Administration of Justice.

The demand was carried and the grant was made.

DEMAND X—CENTRAL PRISON.

MR. K. NARAYANAN PANDALAY (*Ag. Chief Secretary to Government*): Sir, I beg to move for a grant not exceeding Rs. ·87 lakh under Demand X—Central Prison.

Motion 120.

MR. M. N. PILLAI (*Trivandrum*): Sir, I beg to move the following motion:

120. To omit the allotment of Rs. 300 for Honorarium to the Moral Instructor.

My object in making this motion is to call attention to the improper grant of Rs. 300 to the so-called moral instructor in the Central Prison. There is more than one principle involved in this. In the first place, any kind of remuneration, whether it be for moral instruction or for medical service, paid to a non-official visitor of the Jail is against all principles. It means a conflict of interest with duty. Secondly, a practising vakil and a President of the Panchayat Court is not the best man to impart moral instruction. Thirdly, the world is yet to know what claims Mr. K. S. Narayana Aiyar has for the work for which the late Dewan made a gift, except that he is a member of his own community.

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